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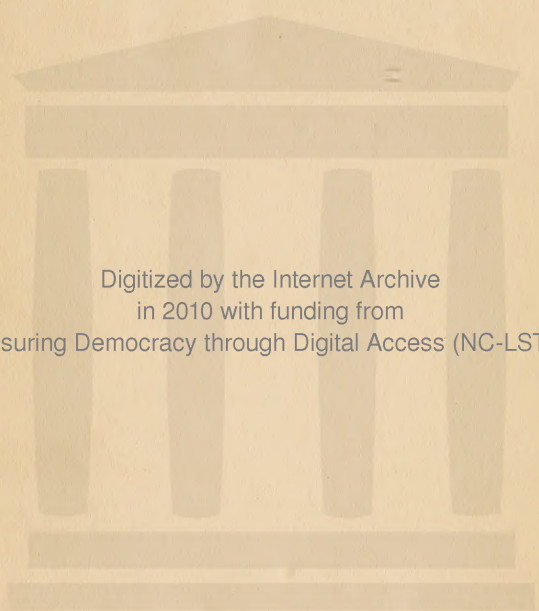
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1	Wm. H. Starr	6 46	37 02
1	Wm. H. Starr	6 46	37 02
1	Colb. Clark		16 89
1	Malcolm C. Clark	1 78	37 02
1	Clark Underwood	1 78	37 02
1	Clark Underwood	1 53	37 02
1	T. J. Dyar		53 00
1	Wm. H. Starr		53 00
1	H. J. Fyfe		56 19

Total,
Debit Taxes, Tax, belonging to Liberty Tax

8,217.00

FOREIGN INSUR- ANCE COMPANIES.	PENALTY FOR FAILING TO SETTLE	AMOUNT OF TAXES.	NO. COUNTIES.
		\$1,953 80	1
		448 87	2
		2,450 60	3
		809 89	4
		2,782 73	5
		3,194 39	6
		1,314 07	7
		1,028 13	8
		1,235 75	9
		1,381 49	10
		2,156 85	11
		773 32	12
		1,329 95	13
		728 70	14
		3,623 75	15
		1,225 49	16
		2,668 70	17
		273 11	18
		2,199 10	19
		1,052 31	20
		657 26	21
		4,739 88	22
		4,955 40	23
		1,169 58	24
		2,048 54	25
		1,223 90	26
		2,069 36	27
		5,275 73	28
		2,181 91	29
		2,698 05	30
		1,072 58	31
		1,533 42	32
		4,529 44	33
		1,409 00	34
		3,325 69	35
		4,181 04	36
		691 37	37
141 00			

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L A W S
OF THE
STATE OF NORTH CAROLINA,
PASSED BY THE GENERAL ASSEMBLY,
AT THE
Session of 1852.

Published agreeably to the fifty-ninth chapter of the
Revised Statutes.

RALEIGH:
WESLEY WHITAKER, JR., PRINTER TO THE STATE;
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(Institution for the Deaf and Dumb and the Blind.)

1853.

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1852

L A W S
OF THE
STATE OF NORTH CAROLINA,
PASSED BY THE GENERAL ASSEMBLY,
AT THE SESSION OF 1852.

AGRICULTURE.

CHAPTER I.

AN ACT TO INCORPORATE THE NORTH CAROLINA
STATE AGRICULTURAL SOCIETY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the State Agricultural Society of North Carolina be and the same is hereby incorporated into a body politic and corporate, and in that name may sue and be sued, have and exercise any and all the powers and rights of other corporations in this State, may pass all such by-laws, rules and regulations as they may regard as necessary for the purposes of this incorporation, may take and hold real and personal estate not exceeding fifty thousand dollars worth of real estate, may acquire the same by deed, devise, or in any other mode, and may use the same only for the purposes hereinafter specified.

Powers of Society specified.

Amount of real estate to be held, &c.

Provides for the election of officers.

SEC. 2. *Be it further enacted*, That the said society shall annually elect a president, four vice presidents, treasurer, recording secretary, corresponding secretary, and such other officers as the society may from time to time find necessary; all of whom shall hold their offices until successors are appointed.

Society organized 8th Oct. 1852—merged in N. C. State Ag. Soc.

SEC. 3. *Be it further enacted*, That the North Carolina Agricultural Society, as organized by a voluntary association on the 8th of October, 1852, at Raleigh, be and the same is hereby incorporated, and the rules and by-laws adopted by said association, and the election of officers made by them, shall be and continue in force until the same are altered or superseded by the corporation hereby created; and that the North Carolina State Agricultural Society herein incorporated shall succeed to all the rights and privileges of said society.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

CHAPTER II.

AN ACT TO ENCOURAGE AGRICULTURE, DOMESTIC MANUFACTURES, AND THE MECHANIC ARTS.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That it shall be lawful for any number of persons, not less than ten,

in any county in this State, to associate together and form a county society to encourage and promote agriculture, domestic manufactures, and the mechanic arts therein, and any such society, when organized according to the provisions of this act, shall have all the powers of a corporation or body politic, and may sue and be sued, implead and be impleaded, prosecute and defend to final judgment and execution, in any court of law or equity, or other tribunal having jurisdiction of the sum in dispute, and may purchase and hold all the real and personal estate, which shall be necessary to best promote the objects of said association, and which estate shall be exclusively devoted to such object.

Defining powers of corporation.

SEC. 2. *Be it further enacted*, That such society shall be formed by written articles of association subscribed by the members thereof, specifying the objects of said society, and the condition on which the subscribers shall become members thereof, and the first meeting shall be notified and held in the manner prescribed in the articles of association. They may adopt a corporate name either in the original articles of association, or by vote at the first meeting thereof, in which such society shall be organized, and may at any meeting adopt a corporate seal, and alter the same at pleasure.

Provides for first meeting of association.

SEC. 3. *Be it further enacted*, That such societies, not exceeding one in each county, shall be organized by appointing a president, two vice-presidents, secretary and treasurer, and such other officers as they may deem proper, to be chosen annually, and to hold their places until others are appointed.

Officers.

SEC. 4. *Be it further enacted*, That when any such societies are organized as aforesaid, they shall

Power to adopt By-Laws.

have power to adopt all such by-laws, rules, and regulations as they shall judge necessary and expedient to promote the objects thereof, not inconsistent with the laws of this State or of the United States.

Clerk to keep
record of pro-
ceedings.

SEC. 5. *Be it further enacted*, That it shall be the duty of the secretary or clerk of such society, to keep fair records of the proceedings of the same in a book provided for that purpose, and such books may be read in evidence in any suit in which the said corporation is concerned.

Public Treas-
urer to pay fifty
dollars to So-
ciety.

SEC. 6. *Be it further enacted*, That, when it shall be made to appear to the satisfaction of the treasurer of this State, by the certificate, under seal, of the clerk of the court of pleas and quarter sessions, that any such society is duly organized in any county according to the provisions of this act, it shall be the duty of the treasurer aforesaid, to pay annually to the treasurer of every such society so organized as aforesaid, or to his order, on application made therefor, the sum of fifty dollars: *Provided*, nevertheless, that no such society shall draw out of the treasury of the State, as aforesaid, in any year, until it shall be made further to appear, to the satisfaction of the treasurer thereof, that there shall have been subscribed and paid into the treasury of such society, for the sole use and benefit thereof for the year in question, the like sum of fifty dollars.

Premiums.

SEC. 7. *Be it further enacted*, That all moneys so subscribed, as well as that received from the State treasury as herein provided, shall, after paying the necessary incidental expenses of such society, respectively, be annually paid out for premiums awarded by such societies, in such sums and in such way and

manner as they severally, under their by-laws, rules and regulations, shall direct, on such live animals, articles of production, and agricultural implements and tools, domestic manufactures, mechanical implements and tools, domestic manufactures, mechanical implements and productions, as are of the growth and manufacture of the county, and also on such experiments, discoveries, or attainments in scientific or practical agriculture, as are made within the county where such societies are respectively organized.

SEC. 8. *Be it further enacted,* That each agricultural society, entitled to receive money from the State treasury, shall, through its treasurer, transmit to the Treasurer of the State, in the month of December or before, a statement of the money so received from the State, together with the amount received from the members of the society for the preceding year, a statement of the expenditures of all such sums, and the number of the members of said society.

Proceedings to
be published.

SEC. 9. *Be it further enacted,* That each agricultural society, receiving money from the State as aforesaid, shall, in each year, publish at their own expense a full statement of their experiments and improvements, and reports of their committees, in at least one newspaper published in this State; and evidence that the requirements of this act have been complied with, shall be furnished to the State treasurer, before he shall pay over to such society the said sum of fifty dollars for the benefit of such society for the next year.

Statement of
experiments to
be published.

[Read three times and ratified in General Assembly
this 27th day of December, A. D., 1852.]

APPORTIONMENT.

CHAPTER III.

AN ACT TO APPORTION THE REPRESENTATION IN THE HOUSE OF COMMONS AMONG THE SEVERAL COUNTIES OF THE STATE.

Apportionment of members in the House of Commons.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That until the first session of the General Assembly, after the year (A. D.) one thousand eight hundred and seventy-one, the House of Commons shall be composed of members elected from the counties in the following manner: The counties of Cumberland, Granville, Guilford, Chatham and Wake shall elect three members each; the counties of Davidson, Edgecombe, Halifax, Iredell, New Hanover, Orange, Randolph, Alamance, Anson, Beaufort, Bertie, Caswell, Cleaveland, Craven, Duplin, Forsythe, Johnston, Mecklenburg, Northampton, Pitt, Robeson, Rockingham, Rowan, Rutherford, Sampson, Warren, Wayne and Wilkes shall elect two members each; the counties of Buncombe, Madison, Surry, Yadkin, Ashe, Bladen, Burke, Cabarrus, Catawba, Cherokee, Davie, Gaston, Gates, Henderson, Hertford, Hyde, Lincoln, Martin, Moore, Nash, Onslow, Pasquotank, Person, Richmond, Stanly, Stokes, Union, Yancey, Alexander, Brunswick, Caldwell, Camden, Carteret, Columbus, Currituck, Greene, Jones, Lenoir, McDowell, Montgomery, Perquimans, Tyrrell, Washington, Watauga, Macon, Haywood, Jackson, Chowan and Franklin shall elect one member each under the same rules and

regulations as are now provided by law: *Provided*, That nothing in this act shall be so construed as to affect the manner of holding an election for members of the House of Commons before the next regular election, to be holden on the first Thursday in August, one thousand eight hundred and fifty-four.

SEC. 2. *Be it further enacted*, That this act shall be enforced [in force] and take effect from and after its ratification.

[Read three times and ratified in General Assembly, this 23d day of December, A. D., 1852.]

BANKS.

CHAPTER IV.

AN ACT TO INCORPORATE THE BANK OF CHARLOTTE.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That a Bank shall be established in the town of Charlotte, the capital stock of which shall not exceed three hundred thousand dollars, divided into shares of fifty dollars each; and, for the purpose of receiving subscriptions for said stock, books shall be opened on the seventeenth day of February, one thousand eight hundred and fifty-three, or

Books—when
to be opened.

Books to be
opened, where
at, &c.

within twenty days after the ratification hereof, and remain open for the space of sixty days, at the following places and under the superintendence of the following persons, to wit: At Charlotte, under the superintendence of Benjamin Morrow, Samuel A. Laws, W. W. Elms, Joseph H. Wilson, William Johnson, H. B. Williams and David Parks, or a majority of them; at Statesville, under the superintendence of Robert Simenton, Samuel R. Bell and Joseph W. Stockton, or a majority of them; at Lincolnton, under the superintendence of C. Cootesworth Henderson, Leonard E. Thompson, Benj'n W. Guion and Robert W. Johnson, or a majority of them; and at the same time, at such other places and under the superintendence of such other persons as may be designated by the commissioners appointed to receive subscriptions at Charlotte.

Shares to be
paid in gold or
silver.

SEC. 2. *Be it further enacted*, That one-fifth of such shares shall be paid in gold or silver, or their equivalent, to the commissioners above named, or those appointed by them at the time of subscribing; that another fifth shall be paid within sixty days thereafter; that another fifth shall be paid within one hundred and twenty days thereafter; that another fifth shall be paid in three months after the time appointed for paying the third instalment, and the remaning fifth shall be paid within three months after the time of paying the fourth instalment; and if any subscriber shall fail to pay any instalment at the time stipulated, he shall pay interest thereon at the rate of *six per cent. per annum*, and his stock shall be forfeited and may be sold by the bank and the proceeds applied to the payment of the aforesaid deficient instalment, and he shall be held responsible for the same at the option of the bank; and the remainder, if any, of such sale to be paid over to the subscriber; *Provided*, That after the bank

Forfeit for failure to pay instalment.

shall have been organized as hereinafter provided, the remaining unpaid instalments shall be paid to the directors, or their agents, and it shall be lawful for any subscriber to pay the whole of his subscription, or any greater part thereof than is hereby required before the time for the same, and every subscriber so paying in advance shall have a discount at the rate of *six per cent. per annum* on such advance, computing the same from the time when payment is made to the time when it is required to be made.

Discount for
advance pay-
ment of stock.

SEC. 3. *Be it further enacted*, That when six hundred shares are subscribed and the sum of fifteen thousand dollars is actually paid to the commissioners aforesaid, the subscribers to the said bank, their successors and assigns, shall be and are hereby created a body politic in law and in fact by the name and style of "The Bank of Charlotte," and shall so continue until the first day of January, eighteen hundred and eighty, and, by the name and style aforesaid, they shall be able and capable in law to have, purchase, receive, possess, enjoy and retain to themselves and their successors, lands, tenements, rents, hereditaments, goods, chattels and effects, and the same to grant, devise, alien and dispose of, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended unto in courts of record, or in any place whatsoever; and also to make, have and use a common seal, and the same to break and renew at their pleasure; and also to ordain, establish and put into execution such by-laws, ordinances and regulations as shall seem necessary and convenient for the government of said corporation, and for the making whereof, general meetings of the stockholders may be called in the manner hereinafter specified, and generally to do and execute all acts, matters and things which a corporation and

Name of Bank.

body politic in law may or can lawfully execute, and be subject to the rules regulations, restrictions and provisions hereinafter prescribed and declared.

Reduction of
stock provided
for.

SEC. 4. *Be it further enacted*, That if it shall happen, when the books are opened as aforesaid, that a greater sum than three hundred thousand dollars shall be subscribed by individuals, or by bodies corporate, it shall be lawful for the commissioners to reduce such subscriptions according to a scale to be by them established for that purpose, to the aforesaid sum of three hundred thousand dollars: *Provided*, That no subscription of two shares, or under, shall be scaled until all larger subscriptions shall first be reduced to an equality with them; and, if six hundred shares should not be subscribed within the sixty days aforesaid, the commissioners may keep open the books for subscription twelve months longer, unless the sum be sooner subscribed; and the directors, elected as hereinafter prescribed, shall be allowed to keep open the subscription books until the whole of the stock shall be taken, and open and close the same previous thereto at their discretion. The commissioners appointed to receive subscriptions at other places, shall pay such to the commissioners herein appointed to receive subscriptions at Charlotte all moneys paid to them on stock subscriptions, immediately on receiving the same.

Books to be
kept open if a
deficiency of
stock.

Advertise for
meeting of sub-
scribers.

SEC. 5. *Be it further enacted*, That as soon as six hundred shares shall be taken in the stock of said bank, and fifteen thousand dollars paid to the commissioners who keep the books, notice shall be given in the Western Democrat, published in the town of Charlotte, or in some other public manner, and a meeting of the subscribers, to be held at least ten days after the date of the notice, shall be called. If at this meeting those,

or their agents, who have a majority of votes according to the rates hereinafter described, be present, if not, another meeting shall be called, they shall proceed to the election of seven directors, who shall take charge of the books and moneys in the hands of the commissioners, and immediately pursue the usual means to put the bank into operation. The said directors shall remain in office until the time prescribed in the by-laws of said corporation for the annual meeting of the stockholders, or until their successors shall be appointed, and at the time which shall be prescribed as aforesaid in each year, or at any time thereafter, meetings of the stockholders shall be held in the town of Charlotte, for the purpose of electing directors, enquiring into the affairs of the institution and making such regulations as may be deemed fit and necessary.

Directors to remain in office till successors are appointed.

SEC. 6. *Be it further enacted*, That the following rules, regulations and provisions, shall form and be the fundamental articles of the constitution of the corporation. A meeting of the stockholders cannot be held unless those who have a majority of the whole number of votes be present, and every act shall require the sanction of a majority of the votes which may be present, every stockholder holding one share, and not more than two, shall be entitled to one vote; for every two shares above two and not exceeding ten, one vote; for every three shares above ten and not exceeding forty, one vote; for every six shares above forty and not exceeding one hundred, one vote; for every ten shares above one hundred and not exceeding two hundred, one vote. After the first meeting no share or shares shall confer a right of voting which shall not have been holden three calendar months previous to the day of voting. Stockholders may vote at general meetings and elections by proxy, the proxy being him-

Mode of voting—how regulated.

Qualifications
of directors.

Three directors
to constitute a
board, &c.,

Ten stockhold-
ers may call a
meeting.

Officers to give
bonds.

Compensation
of officers.

self a stockholder. None but a stockholder who is a citizen of the State shall be eligible as a director, and the stockholders shall appoint annually seven directors to manage the bank, and, when appointed, they shall choose one of their number to be president of the bank, and shall manage the institution as shall seem best, unless otherwise directed by the stockholders. No less than three directors, of whom the president shall always be one, shall constitute a board for the transaction of business, except in case of absence or sickness of the president, when he may, by writing, nominate any other director to supply his place. If a vacancy in the directory shall occur by death, resignation, or otherwise, the remaining directors shall fill such vacancy until the succeeding annual meeting of the stockholders. A number of stockholders, not less than ten, who together shall be owners of three hundred shares or upwards, shall have power at any time to call a general meeting of the stockholders for purposes relative to the institution, giving at least twenty days notice in a public Gazette, and specifying the object or objects of such meeting. The directors shall annually elect such officers as may be deemed necessary to perform the business of the bank, and may remove them, or either of them, at pleasure. Those officers shall be required to give bonds, with two or more securities, [sureties] in sums not less than ten thousand dollars, with a condition of good behavior and faithful performance of duty. They shall be allowed by the directors such compensation for their services as shall be deemed reasonable, but compensation to the president and directors shall be granted at the pleasure of the stockholders. The stock of said corporation shall be assignable and transferable according to the rules which shall be instituted in that behalf by the laws and ordinances of the same.

SEC. 7. *Be it further enacted*, That the said corporation shall neither directly nor indirectly trade in any thing except bills of exchange, promissory notes and bonds expressing on the face of them to be negotiable and payable at said bank, gold or silver bullion, or in the sale of goods really and truly pledged for money lent and not redeemed in due time, or in goods which shall be the produce of its lands, or in mint certificates, and the public debt of the United States and of this State: *Provided*, The investment in such stock shall not exceed one-half of the capital stock of this bank. The said corporation shall purchase and hold only such lands, tenements, rents and hereditaments as shall be required for the convenient transaction of its business, or shall have been *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sale upon judgments which shall have been obtained for such debts.

In what the Corporation may trade.

Proviso.

SEC. 8. *Be it further enacted*, That said corporation shall not take more than *six per cent. per annum* for or upon its bonds or discounts, which interest may be received in advance at the time of discount; and the said bank shall at no time have in circulation more than twice the amount of its capital actually paid in.

Interest allowed.

SEC. 9. *Be it further enacted*, That the bills obligatory and of credit under the seal of the said corporation which shall be made to any person or persons shall be assignable by endorsement thereon, under the hand or hands of such person or persons, and of his, her or their assignee or assignees, and so as absolutely to transfer and vest the property therein in each and every assignee or assignees successively, and to enable

Bills assignable

such assignee or assignees to bring and maintain an action thereupon in his, her or their name or names; and bills or notes which may be issued by order of the said corporation, signed by the President and countersigned by the Cashier, promising the payment of money to any person or persons, his, her or their order, or to bearer, though not under the seal of said corporation, shall be binding and obligatory on the same in the like manner and with the like force and effect as upon any plurate person or persons; that is to say, those which shall be payable to any person or person, his, her or their order, shall be assigned by endorsement in like manner and with like effect as foreign bills of exchange now are, and those which are payable to bearer shall be negotiable and assignable by delivery only.

No notes to be
issued under
three dollars.

SEC. 10. *Be it further enacted*, That no note shall be issued by said bank under the denomination of three dollars; and that if any person or persons holding any note or notes of said bank, and shall present the same for payment, and payment shall be refused, the said note or notes shall draw interest at the rate of twelve per cent. per annum from the time of said demand, and the said bank shall pay the same, any law to the contrary, notwithstanding; and the holder of said note or notes of said bank not paid on demand, may bring an action of assumpsit against any one or all of the directors who may have consented to issue more than twice the capital stock paid in, in case the bank be unable to pay the amount: *Provided, always*, that if any note or notes of the said bank shall be presented by or for any bank, or branch, or agency of any bank, either directly or indirectly, it shall be lawful to pay the same, or any part thereof, with the note or notes of the bank by or for which the demand shall have been made, whether made at

Proviso.

the instance of the principal bank, its branches or agencies, without regard to the place where the same may have been issued or may be made payable.

SEC. 11. *Be it further enacted*, That the directors of said bank may declare semi-annual dividends of the profits thereof: *Provided*, That no dividend shall be declared until the whole amount of stock subscribed shall be paid in gold or silver, or their equivalent; and if at any time more than the real profits are divided, the directors thereto assenting shall be responsible in their private capacities to creditors who have claims against the said institution. Semi-annual dividends.
Proviso.

SEC. 12. *Be it further enacted*, That, in case of any insolvency of the bank hereby created, or ultimate inability to pay, the individual stockholders shall be liable to creditors in sums double the amount of stock by them respectively held in said bank. Liability of stockholders.

SEC. 13. *Be it further enacted*, That the officer at the head of the treasury of the State shall be furnished once in six months with a statement of the amount of the capital stock of said corporation, and the debts due the same, of the moneys deposited therein, of the notes in circulation, and of the cash on hand, and shall have a right to inspect such general accounts in the books of the bank as shall relate to said statement: *Provided*, That this act shall not be construed into a right of inspecting the accounts of any private individual with the bank except the directors. And it shall be the duty of the president of the bank, in the first week in December in each and every year, to transmit to the General Assembly a full statement of the condition of the bank, exhibiting the amount of capital, notes in circulation, debts due to Semi-annual statements.
Proviso.
Annual statements.

other banks, and to what banks, deposits, and other particulars necessary to explain the debit side of the accounts; also, the specie on hand, notes on other banks, and what banks, bills of exchange, debts or bonds, and notes discounted; specifying in one item the amount due from stockholders, and in another the amount due from directors—not, however, using any person's name in either case; and the real estate.

Penalty for
counterfeiting.

SEC. 14. *Be it further enacted*, That if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting any bill or note in imitation of, or purporting to be, a bill or note issued by order of the president and directors of the Bank of Charlotte, or any order or check upon said bank or corporation, or the cashier thereof, or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering any bill or note issued by order of the said corporation, or any order or check on said bank, or the cashier thereof, or shall pass, or receive with intent to pass, utter, or publish as true, any false, forged, or counterfeited bill or note, purporting to be a bill or note issued by order of said corporation, or any false, forged, or counterfeited check or order upon the said bank, or the cashier thereof, knowing the same to be falsely forged or counterfeited, or shall pass, or receive with intent to pass off or publish as true, any falsely altered check or order on said bank, or the cashier thereof, or falsely altered bill or note issued by order of said bank, knowing the same to be falsely altered, with intent to defraud the said corporation or any other body politic, or person or persons, every such person shall be deemed guilty of felony, and being thereof convicted by due course of law,

shall be imprisoned not exceeding ten years, and fined not exceeding five thousand dollars.

SEC. 15. *Be it further enacted*, That the president or cashier of said bank shall annually pay into the treasury of the State, twelve and a half cents on each share of said capital stock which may have been subscribed for and paid in ; and the first payment of said tax shall be made twelve months after said bank shall have commenced operations.

Bonus to the State.

SEC. 16. *Be it further enacted*, That if any president, cashier, clerk, or other officer of the aforesaid bank shall knowingly, wilfully, and with intent to deceive, make or cause to be made, or connive at making, any false return, statement, or exhibit of the condition of the bank, either to the treasurer of the State, to the General Assembly, or the board of directors of the bank, or to the stockholders, or to any other person or persons that may be authorized by the General Assembly or by the stockholders to receive the same, such president, director, cashier, clerk, or other officer, and all persons aiding or abetting in such deception or false return, shall be liable to be indicted for a misdemeanor in the Superior Courts, and upon conviction shall be fined at the discretion of the court, and imprisoned not exceeding one year.

Penalty for false returns.

SEC. 17. *Be it further enacted*, That if a director or any other officer, agent, or servant of said corporation shall embezzle any of the funds belonging to said bank with intent to defraud said corporation, or make false entries upon the books of said bank with intent to defraud said corporation or any other person whatsoever, said officer, agent, or servant shall be held and deemed guilty of felony, and

Penalty for embezzlement.

upon conviction thereof by due course of law, shall be punished by fine at the discretion of the court, and imprisoned not exceeding five years.

Violation of
Charter.

SEC. 18. *Be it further enacted*, That whenever the General Assembly may be of opinion that the charter of the corporation hereby granted shall have been violated, it may be lawful, by joint resolution, to direct the Attorney General, with such assistant counsel as the Governor or General Assembly may think proper to engage, to issue a writ of *scire facias*, returnable before the Judges of the Supreme Court, calling upon said corporation to show cause why the charter hereby granted shall not be forfeited, subject to the same proceedings as are now prescribed by law in case of other corporations.

Record of Pro-
ceedings.

SEC. 19. *Be it further enacted*, That the cashier shall keep a book to contain the proceedings of the board of directors, the names of those present, the day and date of each meeting, and shall record the yeas and nays on any question when asked for by any director; this book shall be evidence in courts of justice; and on entering on the discharge of his duties, the cashier shall take the following oath before some justice of the peace, by whom it shall be returned to the office of the clerk of the county court: "I, A. B., do solemnly swear to keep a just and true record, without alterations or erasures, of the transactions of the board of directors of the Bank of Charlotte in a book to be by me kept for that purpose."

SEC. 20. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly,
this 22d day of December, A. D., 1852.]

CHAPTER V.

AN ACT TO ESTABLISH THE FARMERS' BANK OF NORTH CAROLINA.

SEC. 1. *Be it enacted by the General Assembly* Stock. *of the State of North Carolina, and it is hereby enacted by the authority of the same,* That a bank shall be established in the town of Elizabeth City, the capital stock of which shall not exceed five hundred thousand dollars, divided into shares of one hundred dollars each, and that for the purpose of receiving subscriptions for said stock, books shall be opened on the first day of February, 1853, and remain open for the space of sixty days at Elizabeth City, under the superintendence of the following persons, or a majority of them, to wit: John J. Grandy, C. G. Lamb, James M. Whedbee, W. W. Griffin, Barney Tisdale, and Joseph H. Pool, and at such other places and under the superintendence of such persons as said commissioners may direct.

SEC. 2. *Be it further enacted,* That one-tenth of such shares shall be paid in gold or silver, or their equivalent, to the commissioners above named at the time of subscribing; that another tenth shall be paid within thirty days thereafter; that another tenth shall be paid within sixty days; that another tenth shall be paid within ninety days; that another tenth shall be paid within one hundred and twenty days; and that the remainder shall be paid as the president and directors, hereinafter provided to be elected, may direct; and if any subscriber shall fail to pay any instalment at the time stipulated, he shall pay interest thereon at Stock—when paid.

the rate of six per cent. per annum, and his or her stock shall be forfeited, and may be sold by the bank, and the proceeds applied to the payment of the aforesaid deficient instalment, and he shall be held responsible for the same at the option of the bank, and the balance, if any of such sale, to be paid over to the said subscriber: *Provided*, That no dividend shall be declared until the whole amount of stock subscribed shall be paid in gold or silver, or their equivalent.

When made a
body politic.

SEC. 3. *Be it further enacted*, That when one thousand shares are subscribed, and the sum of twenty-five thousand dollars is actually paid in to the commissioners, the subscribers to the said bank, their successors and assigns, shall be and they are hereby created a body politic in law and in fact, by the name and style of "The Farmers' Bank of North Carolina," and shall so continue until the first day of January, one thousand eight hundred and eighty; and by the name and style aforesaid, they shall be, and they are hereby made able and capable in law to have, purchase, receive, possess, enjoy, and retain to themselves and successors, lands, tenements, rents, hereditaments, goods, chattels, and effects; and the same to grant, alien, and dispose of; to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended in courts of record or any other place whatsoever, and also to make, have, and use a common seal, and the same to break, alter, or renew at their pleasure; and also to ordain, establish, and put in execution such by-laws, ordinances, and regulations as shall seem necessary and convenient for the government of said corporation; and for the making whereof, general meetings of the stockholders may be called in the manner hereafter specified; and generally to do and execute all acts, matters and things which a cor-

poration and body politic in law may or can lawfully execute, and be subject to the rules, regulations, restrictions, and provisions hereafter prescribed and declared.

SEC. 4. *Be it it further enacted*, That as soon Notice.
as one thousand shares shall be taken in the stock of said bank, and twenty-five thousand dollars paid to the commissioners who keep the books, notice shall be given in the newspapers published in the town of Elizabeth City, and a meeting of the subscribers, to be held in ten days at least after the date of the notice, shall be called. If, at this meeting, those or their agents who have a majority of votes according to the rates hereafter described, be present, (if not, another meeting shall be called,) they shall proceed to the election of five directors, who shall take charge of the books and money in the hands of the commissioners, and immediately pursue the usual means to put the bank in operation, and establish a branch of said bank in the town of Greensboro', in this State, as soon thereafter as may be convenient and practicable. The said directors shall remain in office until the first Monday in April, one thousand eight hundred and fifty-four, or until their successors shall be appointed; and on the first Monday in April in each year, or at any time thereafter, meetings of the stockholders shall be held in the town of Elizabeth City, for the purpose of electing directors, inquiring into the affairs of the institution, and making such regulations as may be deemed fit and necessary.

SEC. 5. *Be it further enacted*, That the follow- Constitution.
ing rules, regulations and provisions shall form and be the fundamental articles of the constitution of this corporation: A meeting of the stockholders cannot be

held unless those who have a majority of the whole number of votes be present, and every act shall require the sanction of a majority of the votes which may be present, every stockholder holding one share, and not more than two, shall be entitled to one vote ; for every two shares above two and not exceeding ten, one vote; for every three shares above ten, not exceeding fifty, one vote, and for every five shares above fifty, one vote. After the first meeting, no share or shares shall confer a right of voting which shall not have been holden three calender months previous to the day of voting. Stockholders may vote at general meetings and elections, by proxy, the proxy being himself a stockholder. No president, cashier, agent or clerk of the principal bank, its offices and agencies, shall be permitted to vote as proxy for another. None but a stockholder, who is a citizen of the State shall be eligible as a director, and the directors, when appointed, shall choose one of their own number, which shall always be five, to be president of the bank, and shall manage the institution as shall seem best to them, unless otherwise directed by the stockholders ; but compensation to the president and directors shall be granted at the pleasure of the stockholders. Not less than three directors, of whom the president shall always be one, shall constitute a board for the transaction of business, except in case of absence or sickness of the president, when he may, by writing, nominate any other director to supply his place. A number of stockholders, not less than ten, who together shall be the owners of one thousand shares or more, shall have power at any time to call a meeting of the stockholders for purposes relative to the institution, giving at least twenty days notice in a public gazette, and specifying the object or objects of the meeting. The directors shall annually elect such officers as may be deemed

necessary to perform the business of the bank, and may remove them, or either of them, at pleasure. Those officers shall be required to give bonds, with good and sufficient security, in sums not less than ten thousand dollars, with a condition for good behavior and faithful performance of duty. The cashier shall keep a book to contain the proceedings of the board of directors, the names of those present, the day and date of each meeting, and shall record the yeas and nays on any question when asked for by a director. This book shall be evidence in courts of justice against said bank, and, on entering on the discharge of his duties, the cashier shall take the following oath or affirmation before some justice of the peace, by whom it shall be deposited in the office of the county court clerk of Pasquotank, viz: I, A B, do solemnly swear (or affirm, as the case may be,) to keep a just and true record, without alteration in, or erasure of the transactions of the board of directors of the Farmers Bank of North Carolina, in a book to be kept by me for that purpose. The said corporation shall purchase and hold only such lands, tenements, rents and hereditaments as shall be required for the convenient transaction of business, or shall have been *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sale upon judgments which shall have been obtained for such debts. The said corporation shall neither directly nor indirectly trade in any thing except bills of exchange, promissory notes and bonds expressing on the face of them to be negotiable and payable at said bank, gold or silver bullion, or in the sale of goods really and truly pledged for money lent and not redeemed in due time, or in goods which shall be the produce of its lands, mint certificates and the public debts of the United States: *Pro-*

vided, The investment in such stock shall not exceed one-half the amount of the capital stock of this bank. Neither shall the said corporation take more than at a rate of *six per cent. per annum* for or upon its loans and discounts, which interest may be taken in advance at the time of discount. The total amount of the debts which said corporation shall at any time owe, shall not exceed twice the amount of the stock actually paid in over and above the sum then actually deposited in the bank for safe keeping. If a vacancy in the directory shall occur by death, resignation or otherwise, the remaining directors shall fill such vacancy until the succeeding annual meeting of the stockholders. The stock of the said corporation shall be assignable and transferable according to the rules which shall be instituted in that behalf by the laws and ordinances of the same. The officer at the head of the treasury department of the State shall be furnished once in six months with a statement of the amount of capital stock of said corporation, and the debts due the same, of the moneys deposited therein, of the notes in circulation and of the cash in hand, and shall have a right to inspect such general accounts in the books of the bank as shall relate to the said statement: *Provided*, This shall not be construed to be a right of inspecting the accounts of any private individual with the bank, except of the creditors, [directors.] The bills obligatory and of credit under the seal of said corporation which shall be made to any person or persons, shall be assignable by endorsement thereon, under the hand or hands of such person or persons, and of his, her or their assignee or assignees, and so as absolutely to transfer and vest the property therein in each and every assignee or assignees successively, and to enable such assignee or assignees to bring and maintain an action thereupon in his, her [or] their names, and bills

or notes which may be issued by order of said corporation, signed by the president and countersigned by the cashier, promising the payment of money to any person or persons, his, her or their order, or to bearer, though not under the seal of said corporation, shall be binding and obligatory on the same in the like manner and with the like force and effect as upon any private person or persons; that is to say, those which shall be payable to any person or persons, his, her or their order, shall be assignable by endorsement in like manner and with like effect as foreign bills of exchange now are, and those which are payable to bearer shall be negotiable and assignable by delivery only.

SEC. 6. *Be it further enacted*, That if any person or persons holding any note or notes of said bank shall present the same for payment, and payment shall be refused, the said note or notes shall draw interest at the rate of twelve per cent. per annum from the time of said demand, and the said bank shall pay the same, any law to the contrary notwithstanding, and the holder of the notes of said bank, if not paid on demand, may bring an action of assumpsit against one or all of the directors who may have consented to issue more than twice the stock paid in: *Provided*, The bank be unable to pay the amount.

Failure to redeem notes.

SEC. 7. *Be it further enacted*, That in case of an insolvency of the bank hereby created, or ultimate inability on the part of the corporation to pay, the individual stockholders shall be liable to creditors in sums double the amount of stock by them respectively held in said corporation.

Stockholders liable.

SEC. 8, *Be it further enacted*, That the directors shall be allowed to keep open the subscription books until the whole of the stock shall be taken.

Books kept open.

Embezzlement.

SEC. 9. *Be it further enacted,* That if a director, or any other officer, agent or servant of said corporation, shall embezzle any of the funds belonging to said bank with the intent to defraud said corporation or make false entries upon the books of said bank with intent to defraud said corporation or any other person whomsoever, said officer, agent or servant shall be held and deemed guilty of felony, and upon conviction thereof by due course of law shall be punished, by fine, at the discretion of the court, and imprisoned not exceeding five years.

Counterfeiting.

SEC. 10. *Be it further enacted,* That if any person shall falsely make, forge or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist in falsely making, forging or counterfeiting any bill or note in imitation of or purporting to be a bill or note issued by order of the president and directors of the Farmers' Bank of North Carolina, or any order or check upon said bank or cashier thereof, or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering any bill or note issued by order of the said corporation, or any order or check on said bank or cashier thereof, or shall pass or receive, with intent to pass, alter or publish as true, any false, forged or counterfeit bill or note issued by order of the said corporation, or any false, forged or counterfeited check or order upon the said bank or cashier thereof, knowing the same to be falsely forged or counterfeited, or shall pass or receive, with intent to pass or publish as true, any falsely altered bill or note issued by order of said bank, or any falsely altered order or check on said bank or any cashier thereof, knowing the same to be falsely altered, with intent to defraud the said corporation, or any other body politic or person or persons,

every such person shall be deemed guilty of felony, and, being thereof convicted by due course of law, shall be imprisoned not exceeding ten years, and fined not exceeding five thousand dollars.

SEC. 11. *Be it further enacted*, That the president or cashier of said bank shall annually pay into the treasury of the State twenty-five (25) cents on each share of said capital stock which may have been subscribed for and paid in, and the first payment of said tax shall be made twelve months after said bank shall have commenced operations. Bonus to the State.

SEC. 12. *Be it further enacted*, That the directors of said bank may declare semi-annually dividends of the profits thereof, and if at any time more than the real profits are divided, the directors assenting thereto shall be responsible in their private capacities to the creditors who have claims against the said institution. Dividends.

SEC. 13. *Be it further enacted*, That the president of this bank shall, in the first week in December, in each and every year, transmit to the General Assembly a full statement of the condition of the bank, exhibiting the amount of capital, notes in circulation, debts due to other banks, and to what banks deposited, and all other particulars necessary to explain the debit side of the account; also specie on hand, notes of other banks, bills of exchange, debt on bonds, and notes discounted, specifying in one item the amount due from stockholders, and in another the amount due from directors, not, however, using any person's name in either case; and the real estate. Statements.

SEC. 14. *Be it further enacted*, That if any president, cashier, or clerk, or other officer of the afore- False returns.

said bank, shall knowingly, willingly, and with intent to deceive, make or cause to be made, or connive at making any false return, statement, or exhibit of the bank, either to the treasurer of the State, to the Legislature, or to the board of directors, or to the stockholders, or to any other persons [who] may be authorized by the Legislature or by the stockholders to receive the same, such president, directors, cashier, clerk, or other officer, and all other persons aiding or abetting in such deception or false return, shall be liable to be indicted for a misdemeanor in the Superior Court, and upon conviction shall be fined at the discretion of the court, and be imprisoned not exceeding one year.

Forfeiture of
Charter.

SEC. 15. *Be it further enacted*, That, whenever the Legislature shall be of the opinion that the charter of the corporation hereby granted shall have been violated, it may be lawful, by joint resolution, to direct the Attorney General, with such assistant counsel as the Governor or the Legislature may think proper to engage, to issue a writ of *scire facias*, returnable before the judges of the supreme court, calling upon said corporation to show cause why the charter hereby granted shall not be forfeited, subject to the same proceedings as are now prescribed by law, as in cases of other corporations.

Smallest note
issued.

SEC. 16. *Be it further enacted*, That it shall not be lawful for this corporation to issue, alter, publish, or pass at any time, bills or notes of a less denomination of figure than three dollars.

[Read three times and ratified in General Assembly,
this 27th day of November, A. D., 1852.]

CHAPTER VI.

**AN ACT TO INCREASE THE CAPITAL STOCK OF THE
BANK OF WADESBOROUGH.**

SEC. 1. *Be it enacted by the General Assembly* Stock increas-
of the State of North Carolina, and it is hereby en- ed.
acted by the authority of the same, That the act
entitled an act to incorporate the Bank of Wades-
borough, passed by the General Assembly at its ses-
sion of 1850-51, ratified the 28th of January, 1851,
be and the same is hereby so amended as to increase
the capital stock thereof *four thousand shares.*

SEC. 2. *Be it further enacted,* That the presi- Commissioners
dent and directors of the Bank of Wadesborough shall to open books.
have power, whenever they may deem it advisable, to
appoint commissioners at such times and places as
they may designate, to open books and receive sub-
scriptions for any number of shares of capital stock
of said company, not exceeding four thousand shares
of fifty dollars each, and that the said president and
directors may regulate the mode of receiving and
scaling the stock so subscribed in such manner and to
such amount as they may determine: *Provided,* That
the capital stock shall not exceed four hundred thou-
sand dollars.

SEC. 3. *Be it further enacted,* That this act
shall be in force from and after its ratification.

[Read three times and ratified in General Assembly,
this 17th day of December, A. D., 1852.]

CHAPTER VII.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE A BANK IN THE TOWN OF WASHINGTON, IN THE COUNTY OF BEAUFORT," PASSED AT THE LAST SESSION OF THE GENERAL ASSEMBLY.

Powers granted.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall and may be lawful for the corporation created and established by the above recited act, to purchase, hold and sell, such public debts, bonds, and stocks of this State, and of any corporation chartered by its authority, as now exist, or may be created, and the stocks of such banks as may hereafter be established by a law of the United States: *Provided.* That the investment in such stocks shall not exceed one-half of the capital stock of said bank.

Repeals conflicting laws.

SEC. 2. *Be it further enacted,* That all laws and clauses of laws coming within the meaning and purview of this act, be and the same are hereby repealed.

When to take effect.

SEC. 3. *Be it further enacted,* That this act shall take effect and be in force immediately after the stockholders of the said bank in general meeting agree thereto, and the secretary of state of this State shall be notified by the president or cashier of said bank of such assent having been given.

[Read three times and ratified in General Assembly, this 24th day of December, A. D., 1852.]

CHAPTER VIII.

AN ACT TO INCORPORATE THE BANK OF YANCEYVILLE.

SEC. 1. *Be it enacted by the General Assembly of* Capital stock.
the State of North Carolina, and it is hereby enacted
by the authority of the same, That a bank shall be
 established in the town of Yanceyville, the capital
 stock of which shall not exceed two hundred thousand
 dollars, divided into shares of one hundred dollars each, Shares.
 and for the purpose of receiving subscriptions for said
 stock, books shall be opened on the 17th day of Feb- Books opened.
 ruary, 1853, or within twenty days after the ratifica-
 tion hereof, and remain open for the space of sixty
 days at Yanceyville, under the superintendence of N.
 M. Roan, Allen Gunn, Thomas A. Johnston, S. P.
 Hill, George Williamson, Wm. Long, or any three of
 them; at Milton, under the superintendence of Sam'l
 Watkins, M. McGehee, Nicholas M. Lewis and N. J.
 Palmer, or any three of them; at Currie's Store, under
 the superintendence of James Currie, Thomas Coving-
 ton and F. A. Wiley; at Leasburg, under the superin-
 tendence of Solomon Lea, Nicholas Thompson and
 Jas. S. Thompson; at Lawson's Store, under the superin-
 tendence of R. J. Lawson, W. P. Watt, William D.
 Bethell and Joseph D. Neal, or any three of them; at
 Wentworth, under the superintendence of Thomas B.
 Wheeler, John S. Dillard and Wm. Ellington; and at
 the same time at such other places, and under the su-
 perintendence of such other persons as may be desig-
 nated by the commissioners appointed to receive sub-
 scriptions at Yanceyville.

Stock when
paid in.

SEC. 2. *Be it further enacted*, That one-fifth of such shares shall be paid in gold or silver, or their equivalent, to the commissioners above named, or those appointed by them, at the time of subscribing; that another fifth shall be paid within sixty days thereafter; that another fifth shall be paid within one hundred and twenty days thereafter; that another fifth shall be paid within three months after the time appointed for paying the third instalment, and the remaining fifth shall be paid within three months after the time of paying the fourth instalment, and if any subscriber shall fail to pay any instalment at the time stipulated, he shall pay interest thereon at the rate of six per cent. per annum, and his stock shall be forfeited, and may be sold by the bank, and the proceeds applied to the payment of the aforesaid deficient instalment, and he shall be held responsible for the same at the option of the bank, and the remainder, if any, of such sale, to be paid over to the subscriber: *Provided*, That, after the bank shall have been organized, as hereinafter provided, the remaining unpaid instalments shall be paid to their directors, or their agents, and it shall be lawful for any subscriber to pay the whole of his subscription, or any greater part than is hereby required, before the time limited for the same, and every subscriber so paying in advance shall have a discount at the rate of six per cent. per annum, on each advance, computing the same from the time when payment is made to the time when it is required to be made.

Proviso.

Corporate title.

SEC. 3. *Be it further enacted*, That when six hundred shares are subscribed, and the sum of fifteen thousand dollars actually paid to the commissioners aforesaid, the subscribers to the said bank, their successors and assignees, shall be and are hereby created a body politic, in law and in fact, by the name and style of the "Bank of Yanceyville," and shall so continue until the

first day of January, eighteen hundred and eighty, and by the name and style aforesaid, they shall be able and capable in law to have, purchase, receive, possess, enjoy and retain to themselves and successors, land, tenements, rents, hereditaments, goods, chattels and effects, and the same to grant, devise, alien and dispose of; to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended unto, in courts of record, or in any place whatsoever; and also to make, have and use a common seal, and the same to break, alter or renew, at their pleasure; and also to ordain, establish and put into execution, such by-laws, ordinances and regulations as shall seem necessary and convenient for the government of said corporation, and for the making whereof general meetings of the stockholders may be called in the manner hereinafter specified; and generally to do and execute all acts, matters and things which a corporation and body politic, in law, may or can lawfully execute, and be subject to the rules, regulations, restrictions and provisions hereinafter prescribed and declared.

SEC. 4. *Be it further enacted*, That if it shall happen, when the books shall be opened as aforesaid, that a greater sum than two hundred thousand dollars shall be subscribed by individuals, or by bodies corporate, it shall be lawful for the commissioners to reduce such subscriptions, according to a scale to be by them established for that purpose, to the aforesaid amount of two hundred thousand dollars: *Provided*, That no subscription of two shares or under shall be scaled until all larger subscriptions shall first be reduced to an equality with them; and if six hundred shares should not be subscribed within the sixty days aforesaid, the commissioners may keep open the books for subscriptions twelve months longer, unless the sum be sooner

Subscriptions
to be reduced
if more than
two thousand
dollars.

Proviso.

subscribed, and the directors, elected as hereinafter prescribed, shall be allowed to keep open the subscription books until the whole of the stock shall be taken, and close the same previous thereto, at their discretion. The commissioners appointed to receive subscriptions at Milton, Leasburg and Currie's store, in the county of Caswell, and Lawson's store and Wentworth, in the county of Rockingham, and those who shall be appointed as herein prescribed at other places, shall pay over to the commissioners herein appointed to receive subscriptions at Yanceyville, all monies paid to them on stock subscriptions, immediately after receiving the same.

Notica of meeting of subscribers.

SEC. 5. *Be it further enacted*, That as soon as three hundred shares shall be taken in the stock of said bank, and fifteen thousand dollars paid to the commissioners, who keep the books, notice shall be given in the North Carolina Democrat, or some other public manner, and a meeting of the subscribers, to be held ten days at least after the date of the notice, shall be called. If, at this meeting, those, or their agents, who have a majority of votes, according to the rates hereinafter described, be present, (if not, another meeting shall be called,) they shall proceed to the election of seven directors, who shall take charge of the books and money in the hands of the commissioners, and immediately pursue the usual means to put the bank in operation. The said directors shall remain in office until the time which shall be prescribed in the by-laws of the said corporation, for the annual meeting of the stockholders, or until their successors shall be appointed, and at the time which shall be prescribed as aforesaid, in each year, or at any time thereafter, meetings of the stockholders shall be held in the town of Yanceyville, for the purpose of electing directors, inquir-

ing into the affairs of the institution, and making such regulations as may be deemed fit and necessary.

SEC. 6. *Be it further enacted,* That the following rules, regulations and provisions shall form and be the fundamental articles of the constitution of the corporation: A meeting of the stockholders cannot be had unless those who have a majority of the whole number of votes be present, and every act shall require the sanction of a majority of the votes which may be present. Every stockholder holding one share, and not more than two shares, shall be entitled to one vote; for every two shares above two, and not exceeding ten, one vote: for every three shares above ten, and not exceeding forty, one vote; and for every six shares above forty, and not exceeding one hundred, one vote; for every ten shares above one hundred, and not exceeding two hundred, one vote; for every twenty shares above two hundred, one vote. After the first meeting, no share or shares shall confer a right of voting, which shall not have been holden three calendar months previous to the day of voting. Stockholders may vote at general meetings and elections by proxy, the proxy himself being a stockholder. None but a stockholder, who is a citizen of the State, shall be eligible as a director; and the stockholders shall appoint annually seven directors, to manage the bank, and, when appointed, they shall choose one of their number to be president of the bank, and shall manage the institution as shall seem best, unless otherwise directed by the stockholders. Not less than three directors, of whom the president shall always be one, shall constitute a board for the transaction of business, except in case of absence or sickness of the president, when he may by writing nominate any other director to supply his place. If a vacancy in the directory shall occur

Constitution.

by death, resignation, or otherwise, the remaining directors shall fill such vacancy until the succeeding annual meeting of the stockholders. A number of stockholders, not less than ten, who, together shall be owners of three hundred shares or upwards, shall have power at any time to call a general meeting of the stockholders for purposes relative to the institution, giving at least twenty days notice in a public gazette, and specifying the object or objects of such meeting. The directors shall annually elect such officers as shall be deemed necessary to perform the business of the bank, and may remove them, or either of them, at pleasure. Those officers shall be required to give bonds, with two or more securities, in sums not less than ten thousand dollars, with a condition for good behavior and faithful performance of duty. They shall be allowed by the directors such compensation for their services as shall be reasonable, but compensation to the president and directors shall be granted at the pleasure of the stockholders. The stock of said corporation shall be assignable and transferable, according to the rules which shall be instituted in that behalf by the laws and ordinances of the same.

In what the
corporation
may trade.

SEC. 7. *Be it further enacted*, That the said corporation shall neither directly or indirectly trade in anything, except bills of exchange, promissory notes and bonds expressing on the face of them to be negotiable and payable at said bank, gold or silver bullion, or in the sale of goods really and truly pledged for money lent and not redeemed in due time, or in goods which shall be the produce of its lands, or in mint certificates, and the public debts of the United States and of this State: *Provided*, The investment in such stock shall not exceed one-half of the capital stock of this bank. The said corporation shall purchase and hold

Proviso.

only such lands, tenements, rents and hereditaments, as shall be required for the convenient transaction of its business, or shall have been *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sale upon judgments which shall have been obtained for such debts.

SEC. 8. *Be it further enacted*, That the said corporation shall not take more than six per cent. per annum, for or upon its loans or discounts, which interest may be received in advance, at the time of discount, and the said bank shall at no time have in circulation more than twice the amount of its capital actually paid in. Interest allowed.

SEC. 9. *Be it further enacted*, That the bills obligations, [obligatory,] and of credit under the seal of the said corporation which shall be made to any person or persons, shall be assignable by endorsement thereon, under the hand or hands of such person or persons, and of his, her or their assignee or assignees, and so as absolutely to transfer and vest the property therein in each and every assignee or assignees, successively, and to enable such assignee or assignees to bring and maintain an action thereupon in his, her or their name or names, and bills or notes which may be issued by order of the said corporation, signed by the president and countersigned by the cashier, promising the payment of money to any person or persons, his, her or their order, or to bearer, though not under the seal of said corporation, shall be binding and obligatory on the same, in the like manner and with the like force and effect as upon any private person or persons; that is to say, those which shall be payable to any person or persons, his, her or their order, shall be assignable by endorsement, in like manner and with like effect as Bills, &c. assignable.

foreign bills of exchange now are, and those which are payable to bearer shall be negotiable and assignable by delivery only.

No notes to be
issued under
three dollars.

Proviso.

SEC. 10. *Be it further enacted*, That no note shall be issued by said bank under the denomination of three dollars, and that if any person or persons holding any note or notes of said bank shall present the same for payment, and payment shall be refused, the said note or notes shall draw interest at the rate of twelve per cent. per annum from the time of said demand, and the said bank shall pay the same, any law to the contrary notwithstanding; and the holder of said note or notes of said bank not paid on demand may bring an action of assumpsit against one or all of the directors who may have consented to issue more than twice the capital stock paid in, in case the bank be unable to pay the amount: *Provided always*, That if any note or notes of the said bank shall be presented for payment by or for any bank or branch, or agency of any bank, either directly or indirectly, it shall be lawful to pay the same or any part thereof, with the note or notes of the bank, by or for which the demand shall have been made, whether made at the instance of the principal bank, its branch or agency, without regard to the place where the same may have been issued, or may be payable, and any person or persons who may present the note or notes of the said bank for payment, shall, if required, state, on oath, before a justice of the peace, whether the demand was made for any bank, or branch, or agency of any bank, either directly or indirectly, or, in case of refusing, shall not be entitled to recover any interest whatever, on any note of said bank for which payment may be refused.

Semi-annual
dividends.

SEC. 11. *Be it further enacted*, That the directors of said bank may declare semi-annual dividends

of the profits thereof: *Provided*, That no dividend shall be declared until the whole amount of stock subscribed shall be paid in gold or silver, or their equivalent; and if at any time more than the real profits are divided, the directors thereto assenting shall be responsible, in their private capacities, to creditors who have claims against the said institution. Proviso.

SEC. 12. *Be it further enacted*, That, in case of any insolvency of the bank hereby created, or ultimate inability to pay, the individual stockholders shall be liable to creditors, in sums double the amount of stock by them respectively held in said corporation. Liability of stockholders.

SEC. 13. *Be it further enacted*, That the officer at the head of the treasury department of the State, shall be furnished, once in six months, with a statement of the amount of the capital stock of said corporation, and the debts due the same; of the moneys deposited therein; of the notes in circulation; of the cash in hand; and shall have a right to inspect such general accounts, in the books of the bank, as shall relate to said statement: *Provided*, That this shall not be construed to a right of inspecting the accounts of any private individual with the bank, except the directors; and it shall be the duty of the president of the bank, in the first week of December, in each and every year, to transmit to the General Assembly a full statement of the condition of the bank, exhibiting the amount of capital notes in circulation; debts due to other banks, and to what banks; deposits; and all other particulars necessary to explain the debit side of the account; also the specie on hand; notes on other banks, and what banks; bills of exchange; debts or bonds and notes discounted; specifying in one item the amount due from stockholders, and in another the Semi-annual statements.

Proviso.

Annual statements.

amount due from directors ; not, however, using any person's name in either case ; and the real estate.

Penalty for
counterfeiting.

SEC. 14. *Be it further enacted,* That, if any person shall falsely make, forge or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly aid or assist in falsely making, forging or counterfeiting any bill or note in imitation of, or purporting to be, a bill or note issued by order of the president and directors of the Bank of Yanceyville ; or any order or check upon said bank or corporation ; or the cashier thereof ; or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering any bill or note, issued by the order of the said corporation, or any order or check on said bank, or the cashier thereof ; or shall pass, or receive with intent to pass, alter, or publish as true, any false, forged, or counterfeited bill or note purporting to be a bill or note issued by order of said corporation ; or any false, forged, or counterfeited check or order upon the said bank, or the cashier thereof, knowing the same to be falsely forged or counterfeited, or shall pass, or receive with intent to pass off or publish as true, any falsely altered check or order, on said bank or the cashier thereof, or any falsely altered bill or note issued by order of said bank, knowing the same to be falsely altered, with intent to defraud the said corporation, or any other body politic, or person or persons, every such person shall be deemed guilty of felony, and being thereof convicted, by due course of law, shall be imprisoned not exceeding ten years, and fined not exceeding five thousand dollars.

Bonus to the
State.

SEC. 15. *Be it further enacted,* That the president or cashier of the said bank shall annually pay into the treasury of the State, twenty-five cents on

each share of said capital stock which may have been subscribed for and paid in, and the first payment of said tax shall be made twelve months after said bank shall have commenced operations.

SEC. 16. *Be it further enacted*, That if any president, cashier, clerk, or other officer of the aforesaid bank, shall knowingly, willingly, and with intent to deceive, make, or cause to be made, or connive at making, any false return, statement, or exhibit of the condition of the bank, either to the treasurer of the State, to the Legislature, or the board of directors of the bank, or to the stockholders, or to any other person or persons that may be authorized by the Legislature or by the stockholders to receive the same, such president, director, cashier, clerk, or other officer, and all persons aiding or abetting in such deception or false return, shall be liable to be indicted for a misdemeanor in the superior courts, and upon conviction shall be fined at the discretion of the court, and imprisoned not exceeding one year.

Penalty for
false returns.

SEC. 17. *Be it further enacted*, That if a director, or any other officer, agent, or servant of said corporation shall embezzle any of the funds belonging to said bank, with the intent to defraud said corporation, or make false entries upon the books of said bank, with intent to defraud said corporation or any other person whatsoever, said officer, agent or servant shall be held and deemed guilty of felony, and upon conviction thereof, by due course of law, shall be punished by fine at the discretion of the court, and imprisoned not exceeding five years.

Penalty for
embezzlement.

SEC. 18. *Be it further enacted*, That whenever the Legislature may be of the opinion that the charter

Violation of
Charter.

of the corporation hereby granted shall have been violated, it may be lawful, by joint resolution, to direct the Attorney General, with such assistant counsel as the Governor or Legislature may think proper to engage, to issue a writ of *scire facias*, returnable before the judges of the supreme court, calling upon said corporation to show cause why the charter hereby granted shall not be forfeited, subject to the same proceedings as are now prescribed by law in cases of other corporations.

Record of proceedings.

SEC. 19. *Be it further enacted*, That the cashier shall keep a book to contain the proceedings of the board of directors, the names of those present, the day and date of each meeting, and shall record the yeas and nays on any question, when asked for by any director. This book shall be evidence in courts of justice, and on entering on the discharge of his duties, the cashier shall take the following oath, before some justice of the peace, by whom it shall be returned to the office of the clerk of the county court: "I, A. B., do solemnly swear to keep a just and true record, without alterations or erasures, of the transactions of the board of directors, in a book kept by me for that purpose."

SEC. 20. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 10th day of December, A. D., 1852.]

BONDS.

CHAPTER IX.

AN ACT TO INCREASE THE REVENUE OF THE STATE,
IN THE SALE OF ITS BONDS.

SEC. 1. *Be it enacted by the General Assembly of* Coupons.
the State of North Carolina, and it is hereby enacted
by the authority of the same, That it shall be the duty
of the Public Treasurer, to have coupons attached to
all the Bonds of the State hereafter sold by him, and
when said Bonds are offered for sale, he shall state in
the advertisement thereof, that said bonds have coupons
attached thereto.

SEC. 2. *Be it further enacted,* That this act shall
be in force from and after its ratification.

[Read three times and ratified in General Assembly
this 27th day of December, A. D., 1852.]

CHAPTER X.

AN ACT TO REGULATE THE FORM OF BONDS ISSUED
BY THE STATE.

SEC. 1. *Be it enacted by the General Assembly of* State bonds.
the State of North Carolina, and it is hereby enacted
by the authority of the same, That all certificates here-

after to be issued for any money to be borrowed for the State by virtue of any act now in force, authorizing the same, or of any act which may be hereafter passed for that purpose, shall be signed by the Governor and countersigned by the Public Treasurer, and sealed with the great seal of the State, and shall be made payable to ——— or bearer, and the principal shall be made payable by the State, at a day named in the certificate or bond. And coupons of interest, in such form as may be prescribed by the Public Treasurer, and to be attached to the certificate, and the certificates and coupons attached thereto, shall be made payable at such Bank or place in the city of New York, as he, the Public Treasurer, may think proper, or at the office of the Public Treasury at Raleigh, if preferred by the purchaser: *Provided, however,* That no such certificate shall be issued for a less sum than one thousand dollars, and no certificate shall be sold for a less sum than par value.

A memorandum to be kept.

SEC. 2. *Be it further enacted,* That it shall be the duty of the Public Treasurer to enter in a book, to be kept for that purpose, a memorandum of such bond or certificate, issued by virtue of this act, the numbers, date of issue, when and where payable, to whom issued, or to whom sold, and at what premium, if any, the same was sold by him.

State bonds not to be taxed.

SEC. 3. *Be it further enacted,* That the Bonds or certificates hereafter issued by the State shall not be subject to taxation, and that all laws and clauses of laws coming in conflict with this provision are hereby repealed.

Coupons to be promptly paid.

SEC. 4. *Be it further enacted,* That it shall be the duty of the Public Treasurer to adopt such meas-

OF THE SESSION OF 1852.

ures in regard to appropriations made, as may be necessary to receive* the prompt payment of the amount of all coupons as they may become due, and sustain the credit of the State.

SEC. 5. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 22d day of December, A. D., 1852.]

CHAPTER XI.

AN ACT TO MAKE THE BONDS OF THE STATE ISSUED ON ACCOUNT OF THE FAYETTEVILLE AND WESTERN PLANK ROAD COMPANY TRANSFERABLE.

WHEREAS, There was no provision in the act of assembly incorporating the Fayetteville and Western Plankroad Company for making the bonds of the State, issued for the purpose of paying her subscription to the same, transferable as bonds of like character usually are; and whereas the public treasurer, upon legal advice being taken, determined to erase before issue, that part of said bonds, containing these words, "and is transferable in person or by attorney only at the

* It was no doubt intended that this sentence should read "as may be necessary to *secure* the prompt payment."

office of the Treasurer of the State aforesaid; and whereas many persons purchased said bonds under the belief, that they could be transferred, and therefore paid a higher premium for them than they otherwise would have done; Therefore,

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the public treasurer shall give notice to all persons holding the said bonds, to present them at the treasury of this State on or before the 1st day of May next; and in that case, it shall be his duty to take up said bonds, by giving in lieu thereof, transferable bonds of like amount, dated on the 1st day of January, A. D., 1853, and redeemable at the respective times said bonds now declare upon their faces.

[Read three times and ratified in General Assembly this 17th day of December, A. D., 1852.]

CHAPTER XII.

AN ACT EXTENDING THE TIME OF PAYING THE BONDS OF THE SEABOARD AND ROANOKE RAILROAD COMPANY.

Time of pay-
ment extended.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the time of payment

of the two bonds executed by the Seaboard and Roanoke Railroad Company, to the State of North Carolina, for five thousand three hundred and eighty-seven and $\frac{14}{100}$ dollars each, be and the same is hereby extended for two years from the time they respectively become due, upon the express condition however, that the interest accruing thereon is punctually paid semi-annually.

[Read three times and ratified in General Assembly this 27th day of December, A. D., 1852.]

BOATS, &c.

CHAPTER XIII.

AN ACT FOR THE PROTECTION OF BOATS, CANALS, COASTING AND SEA VESSELS.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That hereafter when any person or persons, shall set or cause to be set, any stake or stakes, in the waters of Pamlico, Croatan, Currituck, and Albemarle Sounds or their tributaries, for the purposes of shad fishing or other large fish, shall be compelled to draw the same by the first day of June in each and every year, under a penalty of five dollars for each stake not drawn as above, to be

To regulate the setting of stakes for shad fishing.

recovered before any Justice of the Peace, within the county, where such offence may occur, to the use of any one who will bring a warrant for the same.

SEC. 2. *Be it further enacted*, That this act shall be in force from and after the first day of June, 1853.

[Read three times and ratified in General Assembly this 27th day of December, A. D., 1852.]

CANALS.

CHAPTER XIV.

AN ACT TO INCORPORATE THE NEW RIVER CANAL COMPANY IN ONSLOW COUNTY.

Corporate title.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That John A. Averett, L. W. Humphrey, John Cox, Owen Huggins, G. J. Ward, E. W. Montfort, Jasper Etheredge, D. W. Simmons, Eli W. Sanders, Wm. Manson, William Fuller, Charles Nixon, J. M. Ward, N. B. Hancock, E. W. Sanders, J. N. Sanders, D. W. Sanders, K. S. McLane, C. B. Glover and Elijah Furgenson, of the county of Onslow, Jeremiah J. Pelleteer, W. T. Bell, the third, David S. Jones, Wm. F. Bell, sr., Benjamin L. Perry, Ben. Lecraft, Isaac Ramsey, Elijah C. Pigott, Melvin

J. Davis and Ambrose Jones, of Carteret county, Wm. P. Moore, John D. Whitford, A. T. Jerkins, of Craven county, and those who may hereafter associate themselves with them, be and the same are hereby constituted a body politic and corporate under the name and style of "The New River Canal Company," and by that name may sue and be sued, plead and be impleaded, shall have succession and shall have power to acquire and transfer property, and to pass all such by-laws and regulations for the good government of said company as are not inconsistent with the constitution of this State nor of the United States.

SEC. 2. *Be it further enacted,* That the capital Stock. stock of said company shall not exceed fifty thousand dollars, in shares of twenty-five dollars each, to be issued by the company in certificates, signed by the president of said company.

SEC. 3. *Be it further enacted,* That said com- Powers. pany shall have power to construct and complete a canal from some point on New river to the most eligible point on Brown Sound, for the transportation of produce.

SEC. 4. *Be it further enacted,* That when the Organization. sum of five thousand dollars shall have been subscribed, the persons heretofore named are authorized and empowered to call a general meeting of the stockholders for the purpose of electing officers and enacting by-laws for the government of said company.

SEC. 5. *Be it further enacted,* That it shall and To condemn land. may be lawful for said officers, or a majority of them, to agree with the owner or owners of land through which said canal may pass for the purchase thereof,

and, in case of disagreement, or in case the owner thereof shall be *feme covert*, infant, *non compos*, or reside without the State, on application to two justices of the peace of the county of Onslow, the said justices shall issue their warrant, under their hands, to the sheriff of said county to summon a jury of twelve freeholders to meet on the land, on a day to be named in said warrant, and, after being duly sworn, to assess the damages (if any) the owners of said land will sustain from the passage of said canal through their land, and such assessment shall be paid by the said company to the owner [s] of said land, or their legal representative; and, on the payment thereof, said company shall be seized in fee of said land as if conveyed by the owners thereof to them by legal assurances.

Tolls.

SEC. 6. *Be it further enacted*, That it shall and may be lawful for the officers and directors of said company to demand and receive, at some convenient toll-gates or houses, to be by them erected, a reasonable toll from all persons using said canal, which toll so to be collected shall be so regulated that the profits shall not exceed twenty per cent. on the capital of said company in any one year.

Duration.

SEC. 7. *Be it further enacted*, That the corporate existence of said company shall be for fifty years, and no longer.

SEC. 8. *Be it further enacted*, That this act shall take effect and be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

CIVIL PROCESS.

CHAPTER XV.

AN ACT CONCERNING THE PLACE OF TRIAL FOR CIVIL PROCESS RETURNABLE BEFORE JUSTICES OF THE PEACE.

SEC. 1. *Be it enacted by the General Assembly* Civil process.
of the State of North Carolina, and it is hereby enacted by the authority of the same, That whenever any civil process for the recovery of money, either for debt or damages, shall be issued in the county in which the defendants, or one of them, may reside, and shall be returnable out of court before one or more justices of the peace, the same shall be returnable at some place within the captain's district wherein the defendants, or one of them, shall reside; and in case no justice of the peace shall reside in said district, then said process shall be returned before some justice in an adjoining district; and if the process be returned otherwise than is herein provided, the justice or justices of the peace before whom the same shall be returned, shall, on exception taken by or on behalf of the defendants, dismiss the same, endorsing thereon the ground of the dismissal; and if the exception so taken be overruled, the defendants, on appeal, shall have the same advantage thereon on motion: *Pro-* Proviso.
vided, That this act shall only apply to the counties of Bladen, Cumberland, Caldwell, Cherokee, Lenoir, Madison, Greene, Bertie, and Wilkes.

SEC. 2. *Be it further enacted*, That if any officer shall violate the provisions of this act, he shall be deemed guilty of a misdemeanor, and upon conviction therefor shall be fined or imprisoned at the discretion of the court.

SEC. 3. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

COLLATERAL WARRANTIES.

CHAPTER XVI.

AN ACT TO DO AWAY WITH COLLATERAL WARRANTIES.

WHEREAS, It is a matter of dispute whether collateral warranties of ancestors leaving an estate of inheritance in possession, are void against their heirs, and it is deemed wise that all collateral warranties of any kind, which may remain, should be abolished ; Therefore,

* Collateral warranties.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That all collateral war-

ranties of ancestors shall be void against their heirs, in the same manner and to the same extent as now they are void when made by ancestors having only a life estate.

SEC. 2. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 21st day of December, 1852.]

COMMISSIONERS.

CHAPTER XVII.

AN ACT TO APPOINT COMMISSIONERS TO LOCATE THE TOWN OF MARSHAL.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That Joseph Carthy, of the county of Haywood, William Lescor, of the county of Caldwell, Gen'l Alzey Burgin, of the county of McDowell, Leander S. Gash, of the county of Henderson, Col. George Bower, of the county of Ashe, Francis P. Glass, of the county of Burke, and Dr. Columbus Mills, of the county of Rutherford, be and they are hereby appointed commissioners to select a site for the location of the town of Marshal, in the county of Madison.

Names of
Commissioners

How many
may act.

SEC. 2. *Be it further enacted*, That any number of said commissioners, not less than five, may act and constitute a quorum for doing any and all of the acts hereby required, and the decision of a majority of those who act shall be good and effectual to locate the site for the town of Marshal and seat of justice for said county of Madison, and if as many as five of said commissioners should fail or refuse to act, the judge who is to hold the spring term of the superior court of said county shall, either in court or out of court, at any time before the sitting of the court appoint others in the places of such as fail or refuse to serve, and the person or persons so appointed, together with such as agree to act under this appointment, shall constitute a board for the purposes aforesaid, and the act or decision of a majority of them shall be good and a final location of said seat of justice.

Privilege
granted to hold
lands.

SEC. 3. *Be it further enacted*, That said commissioners may receive, by donation or by purchase, for and on account of the county, any quantity of land, not less than fifty acres, for the use of the county, and may take a deed or deeds therefor to the county of Madison, or to the chairman of the county court for said county, for the use of said county, and, in either case, the title shall vest in the county, and the town of Marshal shall be laid off on said ground by the commissioners hereinafter named, and the courthouse and jail shall be erected on such part thereof as the commissioners hereinafter named shall designate; and the commissioners hereinbefore named shall file with the clerk of the county court of said county a statement of their decision.

Commissioners
to sell lots.

SEC. 4. *Be it further enacted*, That John E. Patton, Adolphus E. Bain, John Roberts, (of Lurel,)

Joshua Young and John V. Reeves, be and they are hereby appointed commissioners to lay off and sell the lots in said town, or such portion of the land procured for that purpose by the commissioners named in the first section of this act, and shall lay off the lot or lots for the courthouse and jail, and other public purposes, and four suitable lots to be given different churches for the purpose of building houses of worship by the county court of said county, and conveyed by their chairman, and the remainder of such lots so laid off (or such portion thereof as they may deem advisable) shall sell, on one or two years credit, at public auction, after giving twenty days public notice, by advertising in ten different places in said county and in one of the newspapers published in Asheville, and shall take bond and approved security from the respective purchasers, payable to the chairman of the county court of said county for the use of said county, shall give the purchasers certificates of such purchases by them respectively made, and shall file said bonds with the clerk of the said county court, to be by him held or handed over to such other person as the county court shall and may direct, and, on payment of said notes respectively, the chairman of the county court shall execute to the purchaser or purchasers, or his, her or their heirs or assigns, deeds of conveyance for the lot or lots so sold, and such deed shall convey a good and sufficient title to the same.

Lots to be given churches.

SEC. 5. *Be it further enacted,* That any three or more of said commissioners may act, and their action shall be as valid as if done by all, and the action of a majority of those who act shall be binding as the action of the board of commissioners; and if more than two of said commissioners should fail or refuse to act, the county court of said county (a majority of the jus-

How many may act.

tices being present) shall appoint others to fill up the board, who shall have all powers that the commissioners hereby appointed would have, and shall act with those that may not so refuse or fail to act, and any commissioner appointed herein, residing in said county, who shall refuse or neglect to act shall be subject to indictment therefor by the superior court of said county, and on conviction thereof shall be fined at the discretion of the court.

Court-house
and Jail.

SEC. 6. *Be it further enacted*, That the county court shall cause to be erected a suitable courthouse and jail for said county on such lot or lots as may be set apart for that purpose by the commissioners aforesaid, and if any portion of the lands procured for said county by the first named commissioners should not be sold by the last named commissioners, the county courts shall have the power (a majority of the justices for the county being present) to order a sale by such persons and on such terms as they may direct, and the titles shall be made as hereinbefore directed and the proceeds of the sale applied to county purposes as said commissioner shall and may direct.

Plan of the
town.

SEC. 7. *Be it further enacted*, That the commissioners herein appointed to lay off said town lots shall have a plan of the town, stating the lines and number of each lot, and such streets as they may lay off, and the same shall be deposited with the clerk of the county court of said county, and shall be by him filed and safely kept as one of the records of said court, and it shall be received in evidence in any suit touching the boundaries of said lots.

[Read three times and ratified in General Assembly,
this 27th day of December, 1852.]

COMMON SCHOOLS.

CHAPTER XVIII.

AN ACT TO PROVIDE FOR THE APPOINTMENT OF A SUPERINTENDENT OF COMMON SCHOOLS, AND FOR OTHER PURPOSES.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That there shall be appointed a Superintendent of Common Schools for the State; the said officer to be chosen by the Legislature, and to hold his office two years from the time of his election: *Provided,* That this act shall not be so construed as to prevent the Superintendent for the time being, from continuing in office until a successor is duly appointed.

Superintendent
of Common
Schools.

Proviso.

SEC. 2. *Be it further enacted,* That the eighteenth section of the Act of Assembly, establishing and regulating Common Schools, printed and published under the direction of the president and directors of the Literary Fund, in the year 1849, in compliance with the act of the General Assembly, of 1848'-49, be so amended as to make it the duty of the chairman of the board of county superintendents to make their reports on or before the third Monday in November, and to send the same to the Superintendent of Common Schools for the State; and that the said chairman of county superintendents shall, in addition to the matters already required by law, to be stated in their reports, make a statement of the number of certificates issued during

Act of 1849
amended.

County Super-
intendent—du-
ty of Chairman.

SEC. 5. *And be it further enacted,* That the chairman of the boards of county superintendents are authorized to refuse to pay drafts drawn upon them in favor of teachers for compensation for teaching Common Schools, unless said teachers exhibit a regular certificate of mental and moral qualifications from the majority of said examining committee, dated not more than one year from the exhibition thereof.

Drafts—when
payment may
be refused.

SEC. 6. *And be it further enacted,* That it shall be the duty of first superintendent of Common Schools for the State, appointed under the provisions of this act, to collect accurate and full information of the condition and operations of the system of free or Common Schools in each county in the State; and of the size of the school districts; to inform himself as well as possible of the causes, whether local or general, which have affected the success or impede the operations of the system in different sections; to consult with experienced teachers, when possible, and to collect statistics and information of matters materially affecting the cause of education in the State; and on or before the third Monday in November 1854, to make a report in writing to the Governor of the State, furnishing a detailed, succinct and condensed statement of the result of his inquiries in each county, of the history and prospects of the free school system in the State, with such suggestions and observations as may occur to him; which report shall be transmitted by the Governor to the Legislature of the State, that, the said body may thus be in possession of such information as will enable it to modify, if necessary revise and digest all the laws in force in regard to Common Schools, and to make such additions and alterations as may be proper to insure the greater success and efficiency of that system.

Duty of Super-
intendent of
Common
Schools.

Duty of Superintendent continued.

SEC. 7. *And be it further enacted,* That it shall be the duty of the Superintendent of Common Schools for the State, to superintend the operations of the system of Common Schools, and to see that the laws in relation thereto are enforced; to call on the chairman of the different boards of county superintendents who fail to make returns to him according to the provisions of this act; to see that moneys distributed for the purposes of education are not misapplied; and to see that the proper actions provided for by law, are brought against all the officers and agents of the system who are liable to the same. It shall also be the duty of said superintendent under the direction of the literary board, to look after escheated property; and to employ in each county of the State attorneys of skill in the law, to recover on behalf and in the name of the president and directors of the literary fund, all escheats in their several counties, and to see the same if they be not in money under the directions of the said Superintendent, and the president and directors of the literary fund, and pay the proceeds thereof to the treasurer of State, for the use and benefit of the literary fund.

Duty of State Treasurer.

SEC. 8. *And be it further enacted,* That it shall be the duty of the Treasurer of the State to furnish an annual statement to the Superintendent of Common Schools, of the several sums disbursed from the Literary Fund to the different counties of the State, and of the names of the persons receiving the same, for and on behalf of the said counties.

Letter of instruction.

SEC. 9. *And be it further enacted,* That the Superintendent of Common Schools for the State, shall annually issue to the examining committee of each county, a circular letter of instructions and suggestions

as to the qualifications of teachers. And it shall also be the duty of the said Superintendent of Common Schools for the State, to have prepared, and to send to the chairman of county superintendents, printed blanks upon which to make their returns to him, all of which said returns or reports, when received by the Superintendent of Common Schools for the State, shall be filed in the office of the State in the capital in Raleigh.

SEC. 10. *And be it further enacted*, That it shall be the duty of the Superintendent of Common Schools for the State, to arrange in convenient form and order all the laws of this State in relation to Common Schools now in force, or in force after the passage of this act, with a statement of the funds of the Literary Board, or [and] chart of forms for committee-men and examining committees, with forms of bonds ; instructions to agents and officers of the system, and explanations ; which work, when approved by the President and Directors of the Literary Fund shall be printed, and the copies distributed by the said Superintendant of Common Schools for the State, as follows : one copy for every school committee-man, member of examining committee, member of the board of county superintendents, and five for the Clerk of the county court of each county in the State, to be sent to the chairman of the board of county superintendents, and by him distributed ; and five hundred copies to be deposited in the office of the Governor of the State.

Laws to be arranged.

SEC. 11. *And be it further enacted*, That it shall be the duty of the Superintendent of Common Schools for the State, on or before the first Monday in December in each and every year, to make a written report to the Governor of the State, giving a detailed and

Report.

Printing of
Report.

condensed account of the manner in which he has performed his several duties ; of the operations of the system of Common Schools, together with such suggestions and recommendations as he may deem proper ; with tables showing the number of white persons, five years old, and under twenty-one, in each county in the State ; the number who have attended school during the year ; the length of time during which the schools have been kept open in each county ; the number of school districts in each county ; the number of male and female teachers licensed in each county to teach Common Schools during the year, and the average salaries of teachers ; of which reports the Governor shall cause one hundred and fifty copies to be printed in cheap pamphlet form, fifty copies for his own use, and one hundred copies for the use of the said general Superintendant ; and copies of which report shall be communicated by the Governor to the Legislature, at its regular sessions.

Salary of Su-
perintendent.

SEC. 12. *And be it further enacted*, That the Superintendent of Common Schools for the State shall be allowed for his services, under this act, the sum of one thousand five hundred dollars per annum, to be paid out of the moneys of the Literary Fund, by the Treasurer of the State, and in the mode and at the times that other public officers of the State are paid.

Penalty of
neglect of duty.

SEC. 13. *And be it further enacted*, That if the Superintendant of Common Schools for the State, shall wilfully and habitually neglect his duties as specified in this act, or shall use his official position for the purpose of propagating sectarian or political party doctrines, he shall be liable to be removed by the President and Directors of the Literary Board : *Provided*,

Proviso.

A written specification of charges, with the names and address of those preferring them, are delivered to him thirty days before his trial, and he is allowed to be heard in his defence, and to adduce evidence in his behalf; *and Provided, also,* That the said President and Directors of the Literary Fund shall unanimously agree to his removal; in which case, and in all cases of trial, a record of the proceedings and of the charges and answer, shall be made by the said President and Directors of the Literary Fund, and be subject to the inspection of the Legislature. And in case of the removal, or of the death or resignation of the general Superintendent, the President and Directors of the Literary Fund are empowered and directed to make a new appointment for the unexpired term of the late incumbent.

SEC. 14. *And be it further enacted,* That when notified, the Superintendent of Common Schools for the State shall attend the meetings of the Literary Board as long as it shall direct, and for such attendance shall be allowed the usual compensation allowed to members of the Literary Board.

To attend meetings of Literary Board when notified.

SEC. 15. *And be it further enacted,* That the said Superintendent of Common Schools shall, at such times and places as he may deem proper, and as often as possible, deliver public lectures on the subject of education and endeavor to enlist the feelings of the people in the cause.

To deliver lectures, &c.

SEC. 16. *And be it further enacted,* That all moneys collected from defaulting chairmen shall be paid to the credit of the county from which collected.

Money collected from defaulting Chairmen—how disposed of.

SEC. 17. *And be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 4th day of December, A. D., 1852.]

CHAPTER XIX.

AN ACT TO AMEND THE NINTH SECTION OF AN ACT CONCERNING COMMON SCHOOLS, PASSED IN 1844.

To condemn
land for school
purposes.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That whenever the school committee in any school district within this State, cannot procure by purchase, lease, nor receive by donation, a suitable site for a school-house, as near the central part of the district as may be convenient, for the reason that the land so situated near the central part of the district cannot be procured by any of the means aforesaid, it shall be the duty of the school committee of said district to report the same to the succeeding county court, with the reasons why they have not procured a site for a school-house in said district, whereupon it shall be the duty of the said county court to appoint three disinterested freeholders of said county, whose duty it shall be to lay off not more than two acres and not less than one acre, as a site for a school-house in said district, and condemn the same for the use aforesaid, and assess the value thereof,

which said assessed value shall be paid to the owner of the land so condemned by the school committee of said district; and the land so condemned and so paid for, shall be as absolutely under the control of the school committee as if they had received the same by purchase, lease, or donation: *Provided, nevertheless,* That it shall not be lawful for the commissioners appointed by the county court aforesaid, to condemn any land improved by buildings, culture, or otherwise, for the purpose aforesaid.

[Read three times and ratified in General Assembly, this 4th day of December, A. D., 1852.]

CHAPTER XX.

AN ACT IN RELATION TO COMMON SCHOOLS IN MADISON COUNTY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina. and it is hereby enacted by the authority of the same,* That superintendents of common schools for the county of Madison shall be elected as is required by law for the other counties of this State, and they shall appoint a chairman of the board as in other counties, and that the said county shall be laid off into school districts, and committee men elected in each district, as now required by law for other counties.

Superintendents—how elected.

Number of
children to be
returned.

SEC. 2. *Be it further enacted*, That the number of children between the ages of four years and twenty-one years, in the counties of Madison, Yancy, and Buncombe, shall be ascertained by the committee men in the different districts as soon as practicable, and the chairman of the board of superintendents of the respective counties shall make return thereof to the public treasurer by the first day of April, 1853, or as soon thereafter as practicable, and the treasurer shall divide the portion of the school fund falling due to the counties of Buncombe and Yancy according to the last census between the said counties, and Madison county according to the number of children reported in each county.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

CONGRESSIONAL DISTRICTS.

CHAPTER XXI.

AN ACT TO DIVIDE THE STATE OF NORTH CAROLINA INTO CONGRESSIONAL DISTRICTS.

Number of
Districts.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That for the purpose of electing representatives to the Congress of the United

States, this State shall be divided into eight districts, as follows, to wit :

- (1.) The first district shall be composed of the counties of Currituck, Camden, Pasquotank, Perquimans, Gates, Chowan, Hertford, Northampton, Halifax, Martin, Bertie, Washington and Tyrrel. 1st District.
- (2.) The second district shall be composed of the counties of Hyde, Beaufort, Pitt, Craven, Jones, Lenoir, Wayne, Greene, Edgecombe, Onslow and Carteret. 2d District.
- (3.) The third district shall be composed of the counties of New Hanover, Brunswick, Columbus, Bladen, Sampson, Cumberland, Robeson, Duplin and Richmond. 3d District.
- (4.) The fourth district shall be composed of the counties of Wake, Franklin, Warren, Granville, Orange, Nash and Johnson. 4th District.
- (5.) The fifth district shall be composed of the counties of Person, Caswell, Alamance, Chatham, Randolph, Guilford, Moore and Montgomery. 5th District.
- (6.) The sixth district shall be composed of the counties of Stokes, Forsythe, Rockingham, Davidson, Davie, Yadkin, Surry, Iredell, Alexander and Ashe. 6th District.
- (7.) The seventh district shall be composed of the counties of Catawba, Gaston, Lincoln, Mecklenburg, Rowan, Cabarrus, Union, Anson, Stanly and Cleaveland. 7th District.

- 8th District. (8.) The eighth district shall be composed of the counties of Wilkes, Watauga, Caldwell, Burke, Rutherford, McDowell, Henderson, Buncombe, Yancy, Haywood, Macon, Cherokee, Jackson and Madison.

Sheriffs to
compare the
polls.

SEC. 2. *Be it further enacted*, That the sheriffs of the different counties shall meet on Thursday succeeding the day of election, to compare the polls at the following places, to wit: In the first district, at the county seat of Bertie county; in the second district, in the town of Newbern, in the county of Craven; in the third district, at the county site in the county of Bladen; in the fourth district, at Louisburg, in the county of Franklin; in the fifth district, at the town of Graham, in the county of Alamance; in the sixth district, at the county seat of Yadkin county; in the seventh district, at the town of Charlotte, in the county of Mecklenburg; in the eighth district, at the town of Asheville, in the county of Buncombe.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

COUNTIES.

CHAPTER XXII.

AN ACT TO RATIFY AND CONFIRM THE PROCEEDINGS FOR THE ESTABLISHMENT OF THE COUNTIES OF ALAMANCE AND YADKIN.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the proceedings had under and by virtue of the act entitled an act to lay off and establish a new county by the name of Alamance, chapter 14, passed at the session of 1848-49, and a supplemental act thereto, chap. 15, by which the county of Orange was divided, and the county of Alamance established according to the boundaries as therein recited and set forth, under and by virtue of which the commissioners under said acts selected and determined upon a permanent seat of justice for said county, and also laid off and selected the site for the town of Graham, for the erection of a court-house and jail for said county, and all other acts and proceedings had under and by virtue of said acts, are hereby ratified and confirmed, and shall be forever held valid and effectual in law to all intents and purposes whatsoever.

Former act in relation to Alamance ratified.

SEC. 2. *Be it further enacted,* That the proceedings had under and by virtue of an act entitled an act to lay off and establish a new county by the name of Yadkin, chap. 40, passed at the session of 1850-51, and a supplemental act thereto, chap. 41, by which

Former act in relation to Yadkin ratified.

the county of Surry was divided, and the county of Yadkin established according to the boundaries as therein recited and set forth, under and by virtue of which the commissioners under said acts selected and determined upon a permanent seat of justice for said county, and also laid off and selected the site for the town of Wilson, for the erection of a court-house and jail for said county, and all other acts and proceedings had under and by virtue of said acts are hereby ratified and confirmed, and shall be forever held valid and effectual in law to all intents and purposes whatsoever.

Invested with
rights, &c.

SEC. 3. *Be it further enacted*, That the counties of Alamance and Yadkin shall be and are hereby invested with all the rights, privileges, and immunities in as full and ample a manner as are the other counties in this State, and all and every act had and done in and by virtue of the several acts as hereinbefore referred to in regard to the counties of Alamance and Yadkin, are hereby legalized and rendered valid in as ample and full a manner as if the same had been specially enacted and provided for the acts aforesaid.

SEC. 4. *Be it further enacted*, That this act shall take effect from and after its ratification.

[Read three times and ratified in General Assembly,
this 24th day of December, A. D., 1852.]

CHAPTER XXIII.

**AN ACT TO ESTABLISH THE DIVIDING LINE BETWEEN
THE COUNTIES OF BEAUFORT AND CRAVEN. . .**

Be it enacted by the General Assembly of the Dividing line.
State of North Carolina, and it is hereby enacted
by the authority of the same, That from and after the
passage of this act, the dividing line between said
counties of Beaufort and Craven shall begin at the
head of Jones' Bay at a cedar post, and run S. 83 deg.
39 min. W. to the head of Bay River at the bridge on
the road leading from Durham's Creek to Goose Creek
in Craven county, thence from said Bay River N.
47 deg. 48 min. W. to Flat Swamp Bridge on the road
leading from Core Point to Gaskins' Ferry, thence from
said Flat Swamp Bridge N. 57 deg. 29 min. W. to the
run of Creeping Swamp on the Pitt county line.
And the lines as herein mentioned shall be the dividing
lines between said counties of Beaufort and Craven ;
any law, usage, or custom to the contrary notwith-
standing.

[Read three times and ratified in General Assembly,
this 12th day of November, A. D., 1852.]

CHAPTER XXIV.

AN ACT CONCERNING ELECTIONS IN BEAUFORT COUNTY.

Time of opening and closing polls.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That hereafter at all elections held in the county of Beaufort, the polls of election shall be opened at the several precincts in said county at ten o'clock, A. M., and shall not be closed until five o'clock, P. M.

[Read three times and ratified in General Assembly this 27th day of December, A. D., 1852.]

CHAPTER XXV.

AN ACT SUPPLEMENTAL TO AN ACT PASSED AT THE LAST SESSION OF THE GENERAL ASSEMBLY, ENTITLED AN "ACT TO ALTER THE LINE BETWEEN THE COUNTIES OF BUNCOMBE AND HENDERSON."

Distribution in Henderson.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That "the president and directors of the Literary Fund" shall ascertain as nearly as the same can be done without an actual enumeration, the

number of persons residing in that part of Henderson county, which was by the 45th chapter of the acts passed at the last session of this General Assembly, entitled "An Act to alter the line between the counties of Buncombe and Henderson," detached from Buncombe and made a part of Henderson county, and in all future distributions of said fund, among the several counties of the State, the persons aforesaid shall be computed as a part of the population of Henderson county, and the fund distributed accordingly.

[Read three times and ratified in General Assembly this 27th day of December, A. D., 1852.]

CHAPTER XXVI.

AN ACT TO AUTHORIZE ANY FIFTEEN JUSTICES OF THE PEACE OF CRAVEN COUNTY TO APPOINT SUPERINTENDENTS OF COMMON SCHOOLS FOR SAID COUNTY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That hereafter it shall not be necessary for a majority of the Justices of the Peace for Craven county to be present, for the purpose of appointing superintendents of common schools for said county of Craven; and the county court of said county, at the session next preceding the first day of January in each year (fifteen Justices of the Peace being present) shall proceed to appoint not more than

Fifteen Justices may appoint Superintendents of Common Schools.

ten, nor less than five superintendents of common schools for said county of Craven.

Laws repealed.

SEC. 2. *Be it further enacted*, That all laws and clauses of laws coming in conflict with the foregoing act be, and the same are hereby repealed.

SEC. 3. *Be it further enacted*, That this act shall take effect from and after its ratification.

[Read three times and ratified in General Assembly this 8th day December, A. D., 1852.]

CHAPTER XXVII.

AN ACT TO PROVIDE FOR CLEARING OUT CYPRESS CREEK IN DUPLIN COUNTY.

Overseers.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same*, That at the first term of the Court of Pleas and Quarter Sessions, to be holden for the county of Duplin, and at any time thereafter, seven Justices being present, they shall appoint overseers and allot hands to clear out and keep open Cypress Creek in the county of Duplin, for the free passage of rafts of lumber, timber, turpentine and other products down the same, from a point where the Duplin and Onslow road crosses said stream, to its mouth at North East River.

SEC. 2. *Be it further enacted*, That the overseers ^{How appointed.} shall be appointed in the same manner, and shall be subject to the same rules and penalties as overseers of the public roads are now by law : *Provided*, The overseers and hands appointed under this act, shall be exempt from working on any public road.

SEC. 3. *Be it further enacted*, That if any person ^{Penalty for obstructions.} or persons shall fell timber or otherwise obstruct the run of said Creek, or cause the same to be done, shall be deemed guilty of a misdemeanor, and liable to indictment, and upon conviction, shall be fined or imprisoned at the discretion of the court : *Provided*, That nothing in this act shall be so construed as to prevent any person entitled thereto, from building mills on said stream : *Provided always*, That if any person or persons who have heretofore, or who shall hereafter build any mill or erect a dam across said Creek between the points designated by this act, and shall refuse or neglect to keep open a sufficient slope or passage for the free and safe passage for boats, rafts of lumber, timber, turpentine and other products on said stream, shall, for every such neglect or refusal, be liable to a penalty of fifty dollars before any Justice of the Peace for said county, in the name of any person suing for the same, and applied, one half to his own use, and the other half to the use of the widows of the poor of said county, and be furthermore liable to indictment.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

CHAPTER XXVIII.

AN ACT TO REPEAL AN ACT PASSED AT THE SESSION OF THE GENERAL ASSEMBLY, HELD IN THE YEAR EIGHTEEN HUNDRED AND ELEVEN, ENTITLED AN "ACT TO ALTER THE MODE OF HOLDING ELECTIONS IN THE COUNTY OF EDGECOMBE."

Act of 1811
repealed.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the above recited act, or so much thereof as is now in force, be, and the same is hereby repealed.*

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

CHAPTER XXIX.

AN ACT CONCERNING THE DISTRIBUTION OF THE SCHOOL FUND IN THE COUNTY OF GASTON.

To receive
School Fund.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That in the distribution of the nett annual income of the literary fund, the Literary Board shall hereafter pay to the chairman of the Board of Superintendents of Gaston County that por-*

tion of the common school fund to which said county of Gaston is entitled.

SEC. 2. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 8th day of November, A. D., 1852.]

CHAPTER XXX.

AN ACT SUPPLEMENTAL TO AN ACT PASSED BY THE GENERAL ASSEMBLY OF 1850-51, ENTITLED "AN ACT TO LAY OFF AND ESTABLISH A NEW COUNTY BY THE NAME OF JACKSON."

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That William H. Bryson, Elihu Coward, Charles Bumgarner, William Fathem, Wesley W. Enloe, William R. Crawford and Mark Coleman are hereby appointed commissioners to select and determine upon a site for a permanent seat of justice in Jackson county, and that a majority of said commissioners shall have power and authority to act. Commissioners for a site.

SEC. 2. *Be it further enacted*, That a majority of said commissions [commissioners] shall have the power to purchase or receive by donation for the county of Jackson a tract of land containing not less Site—how obtained.

than ten nor more than one hundred acres, to be conveyed to the chairman of the county court of said county and his successors in office, upon which a town shall be laid off and called Webster, where the courthouse and jail shall be erected, and where, after the completion of said courthouse, the courts of said county shall be held, and the clerks and register shall keep their offices; and the said commissioners shall lay off the lots of said town, and, after designating such as shall be retained for public uses, shall expose, after due notice, the balance, or such portion thereof as may by them be deemed necessary, at public auction, upon a credit of one and two years, and shall take from the purchasers bond and security for the purchase money, made payable to the chairman of the county court and his successors in office, and upon the payment of the purchase money the chairman or his successors shall execute title therefor, which money shall be appropriated to the building of a courthouse and jail.

Justices, &c.

SEC. 3. *Be it further enacted*, That the justices of the peace and officers of the militia who reside within the county of Jackson shall continue to hold and exercise all the official powers and authorities in and for said county that they had heretofore held and exercised in the counties of Haywood and Macon.

Constables.

SEC. 4. *Be it further enacted*, That constables now residing within the limits of Jackson county shall continue to hold and exercise all the official powers and authorities and perform all the duties appertaining thereto until the expiration of their term of office for which they have been chosen under the same rules, regulations and penalties that constables are subject to in this State.

SEC. 5. *Be it further enacted*, That a court of Courts. pleas and quarter sessions, to be held by the justices of the peace in and for the said county, and a superior court of law and equity shall be and the same are hereby established for said county of Jackson, the first term of each of said courts to be held at such times and places as the present General Assembly shall hereafter direct; and at the first term of court of pleas and quarter sessions, a majority of the justices of the peace being present, a clerk of the county court, a trustee, register, sheriff, coroner, an entry taker, surveyor and county attorney, and all other officers for said county shall be elected, who shall enter into the bonds required by law, and shall hold and continue in said office until successors to them are duly chosen and qualified, according to the acts of assembly in such cases made and provided.

SEC. 6. *Be it further enacted*, That Ninean Ed- Commissioners
mundston, of the county of Haywood, and John Mc- to run line.
Dowell, of the county of Macon, be and they are herel
by appointed commissioners to run, make and estab-
lish the line of the said county of Jackson, and shall
make report thereof, under their hands and seals, to
each of the county courts of Haywood, Macon and
Jackson, which reports shall constitute a record in
each of said courts, and the expenses of the said sur-
vey to be paid in equal proportion by each of said
counties.

[Read three times and ratified in General Assembly,
this 22d day of December, A. D., 1852.]

CHAPTER XXXI.

AN ACT TO AUTHORIZE THE WARDENS OF THE POOR
IN LINCOLN COUNTY TO SELL THE LAND IN SAID
COUNTY ON WHICH THE POOR HOUSE IS SITUATE.

To sell the
poor land.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the wardens of the poor of Lincoln county, or their successors in office, have power and are hereby authorized to sell and dispose of the land in said county, known as the poor land, (on which the poor-house in the said county is situate,) either at public or at private sale, and make to the purchaser or purchasers good and sufficient titles for said land in fee simple; the proceeds of said land to be appropriated to the use and benefit of the poor of Lincoln county.

SEC. 2. *Be it further enacted,* That this act shall go into effect from and after its ratification.

[Read three times and ratified in General Assembly,
this 12th day of November, A. D., 1852.]

CHAPTER XXXII.

**AN ACT TO ALTER THE NAME OF THE COUNTY SEAT
OF STOKES COUNTY.**

SEC. 1. *Be it enacted by the General Assembly of* ^{Name of}
the State of North Carolina, and it is hereby enacted ^{County seat.}
by the authority of the same, That so much of the act
of 1850-51, chapter 335, as gives to the county seat
of Stokes county the name of Crawford, be and the
same is hereby repealed; and that the said county
seat be hereafter known and called by the name of
Danbury.

SEC. 2. *Be it further enacted,* That this act
shall be in force from and after the 2d Monday in
March next.

[Read three times and ratified in General Assembly,
this 8th day of November, 1852.]

CHAPTER XXXIII.

AN ACT TO ATTACH A PORTION OF THE COUNTY OF WILKES TO THE COUNTY OF ALEXANDER.

Boundary.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That all that portion of the county of Wilkes, lying and being South of the following boundary line, to wit: beginning on the top of the brushy mountain at John Ellison's old place, where the county line comes to the top of the mountain, running thence with the top of the mountain to a point opposite and near to John Bentley's; thence to the ten mile post on the Cove Gap road; thence a straight line to Jones Clanton's old place; thence with the top of the brushy mountain to the house of Benson Riley, leaving the dwelling house and buildings therewith connected, of the said Riley, in the county of Wilkes; thence with the top of the brushy mountain to the point at which the Alexander line intersects with the Wilkes line near the House of John Robinett, be and the same is hereby attached to the county of Alexander.

Surveyor.

SEC. 2. *Be it further enacted,* That it shall be the duty of the Courts of Pleas [and] Quarter Sessions for the counties of Wilkes and Alexander, at their first term after the first day of January, 1853, to appoint one surveyor each, to survey the boundary line set forth in this act, and report the same to the Courts of Pleas and Quarter Sessions of their respective counties.

SEC. 3. *Be it further enacted*, That the expense of the survey provided for in the second section of this act shall be paid by the county of Alexander. Expense of Survey.

SEC. 4. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly this 17th day of December, A. D., 1852.]

CHAPTER XXXIV.

AN ACT TO CHANGE THE NAME OF THE COUNTY SITE [SEAT] OF YADKIN COUNTY.

WHEREAS, It appears that there are two towns in this State called Wilson, in which post offices are established, which causes considerable embarrassment in the business of said offices, Therefore, Preamble.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That so much of an act supplemental to an act passed at the session of 1850-'51, establishing the county of Yadkin, as relates to the naming of the said county site [seat] Wilson, be and the same is hereby repealed, and that the said town shall hereafter be called "Yadkinville," and that all acts coming in collision with this act, are hereby repealed. Change of name.

[Read three times and ratified in General Assembly this 25th day of December, A. D., 1852.]

CHAPTER XXXV.

AN ACT TO REPEAL AN ACT ENTITLED "AN ACT GRANTING ORIGINAL AND EXCLUSIVE JURISDICTION OF ALL CASES WHERE THE INTERVENTION OF A JURY MAY BE NECESSARY, TO THE SUPERIOR COURTS OF LAW FOR COLUMBUS COUNTY."

Act repealed.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That an act of the General Assembly of the session of 1850-51, entitled "An act granting original and exclusive jurisdiction of all cases where the intervention of a jury may be necessary, to the superior courts of law for Columbus county," chapter 83, be and the same is hereby repealed.

Open polls.

SEC. 2. *Be it further enacted,* That the sheriff of Columbus county shall, on the first Thursday in August next, open polls for the purpose of ascertaining the wishes of the people in said county in regard to jury trials in the county courts, and that the poll-keepers for the election of members of Congress shall keep the polls for the votes given for and against jury trials in the county courts of said county.

Question of the polls.

SEC. 3. *Be it further enacted,* That the question before the people of said county shall be, "jury" or "no jury" in the county courts; and if a majority shall decide in favor of "jury," then this act shall be in force and take effect.

[Read three times and ratified in General Assembly this 27th day of December, A. D., 1852.]

CHAPTER XXXVI.

AN ACT TO AUTHORIZE THE COUNTY COURT OF DUPLIN TO SELL A PART OF THE PUBLIC LANDS OF SAID COUNTY.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the court of pleas and quarter sessions for the county of Duplin, a majority of the acting justices being present, be, and they are hereby authorized and empowered to sell and dispose of any part of the public lands belonging to said county as to them may seem right and expedient; and a deed, made and executed by the chairman of said court, shall be good and sufficient in law, to pass the fee simple estate in said lands.

Authority to
sell.

[Read three times and ratified in General Assembly
this 6th day of November, A. D., 1852.]

CHAPTER XXXVII.

AN ACT CONCERNING THE COUNTY COURT[S] OF EDGE-COMBE AND GUILFORD.**Quorum.**

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That fifteen justices of the peace of the counties of Edgcombe and Guilford shall constitute a quorum for the transaction of business in the courts of pleas and quarter sessions of said counties, in all cases (except the laying of taxes) where a majority of the whole number of justices is now required by law: Provided, That in any election, appointment or qualification of officers under this act the concurrence of twelve justices shall be required.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

CHAPTER XXXVIII.

AN ACT TO AMEND THE 15TH SECTION OF THE 31ST CHAPTER OF THE REVISED STATUTES, SO AS TO AUTHORIZE THE SUPERIOR COURT OF LAW AND EQUITY TO BE HELD FOR TWO WEEKS IN THE COUNTY OF NEW HANOVER.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the 15th section of the 31st chapter of the Revised Statutes, which provides for the time of holding courts in the counties composing the 5th judicial circuit, be and the same is hereby amended, so that hereafter the superior courts of law and equity for the county of Richmond shall be held on the third Monday of March and on the third Monday of September; Robeson on the fourth Monday of March and on the fourth Monday of September; Bladen on the first Monday after the fourth Monday of March and the first Monday after the fourth Monday of September; Columbus on the second Monday after the fourth Monday of March and on the second Monday after the fourth Monday of September; Brunswick on the third Monday after the fourth Monday of March and on the third Monday after the fourth Monday of September; New Hanover on the fourth Monday after the fourth Monday of March and on the fourth Monday after the fourth Monday in September, and continue open at each term for two weeks should the business of said court require it; Sampson on the sixth Monday after the fourth Monday in March and on the sixth Monday after the fourth Monday of September; Cumberland on the seventh Monday after the

Time of holding court.

fourth Monday of March and on the seventh Monday after the fourth Monday of September.

Salary.

SEC. 2. *Be it further enacted*, That the judge who shall ride the fifth judicial circuit shall be entitled to receive ninety dollars for each additional week that he is required to hold court in said county of New Hanover, which sum shall be paid by the county trustee of New Hanover county.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

CHAPTER XXXIX.

AN ACT TO REPEAL AN ACT, ENTITLED "AN ACT FOR THE BETTER ORGANIZATION OF THE COURT OF PLEAS AND QUARTER SESSIONS FOR THE COUNTY OF PASQUOTANK," PASSED AT THE LAST SESSION OF THE GENERAL ASSEMBLY, CHAPTER 55.

Act repealed.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That the act of the General Assembly of the session of 1850-'51, entitled "An act for the better organization of the county court of Pasquotank," chapter 55, be, and the same is hereby in all things repealed.

SEC. 2. *Be it further enacted*, That this act shall take effect and be in force from and after its pas sage.

[Read three times and ratified in General Assembly this 12th day of November, A. D., 1852.]

CHAPTER XL.

AN ACT TO AUTHORIZE THE COURT OF PLEAS AND QUARTER SESSIONS OF PERQUIMANS COUNTY TO SELL A PORTION OF ITS PUBLIC SQUARE.

SEC. 1. *Be it enacted by the General Assembly of* Public square. *the State of North Carolina, and it is hereby enacted by the authority of the same*, That the court of pleas and quarter sessions for Perquimans county, a majority of the acting justices being present, be, and the same are hereby authorized and empowered to sell and dispose of such portion of the public square, upon which the public buildings are erected and upon such terms as they may direct and order.

SEC. 2. *Be it further enacted*, That a deed of Title. bargain and sale, made and executed under the order of the said court, by the chairman of the same, to the purchaser or purchasers, shall be good and sufficient to pass the title of the real estate so ordered to be sold.

SEC. 3. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly this 17th day of December, A. D., 1852.]

CHAPTER XLI.

AN ACT TO GIVE TO THE COURT OF PLEAS AND QUARTER SESSIONS OF THE COUNTIES OF RANDOLPH AND GRANVILLE, JURISDICTION OVER THE SALE OF REAL ESTATE FOR DIVISION AMONGST JOINT TENANTS, AND TENANTS IN COMMON.

Preamble.

WHEREAS, It frequently happens under the laws now in force, requiring all petitions for the sales of real estate for division amongst joint tenants or tenants in common, to be filed in the Court of Equity, that the costs and expenses attending such petition and sale, amount to nearly as much as such real estate is worth, or to a sum which, when compared with the value of such real estate, is oppressive to those who are interested therein: Now, therefore, to remedy such hardship, and to facilitate and cheapen the division of real estate between joint tenants or tenants in common in the counties of Randolph and Granville.

Jurisdiction.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That hereafter the Courts

of Pleas and Quarter Sessions of the counties of Randolph and Granville shall have full power and authority to decree a sale of any real estate situate in the said counties, for division amongst joint tenants or tenants in common, upon petition filed by any of the parties interested therein, under the same rules, regulations and restrictions as are now imposed by law upon the Courts of Equity of said counties in decreeing such sales: *Provided, always*, That no such sale shall be decreed by the said Courts of Pleas and Quarter [Sessions] unless it shall be suggested and made appear to the satisfaction of the court that an actual partition cannot be made without injury to some or all of the parties interested: *and Provided further*, That whenever any of the parties shall be an *infant*, a *feme covert*, *non compos mentis*, imprisoned or out of the limits of the State, it shall be the duty of the court to direct the part of the proceeds of the sale, to which such person is entitled, to be so invested or settled, that the same shall be effectually secured unto the person so entitled, or his or her real representative.

SEC. 2. *Be it further enacted*, That the decree of the clerk of the court decreeing the sale as aforesaid, shall be held, deemed and taken as good and sufficient to convey to the purchaser such title, interest and estate in the lands, tenements and hereditaments as decreed to be sold, as the respective tenants in common, or joint tenants had therein, which deed shall recite in substance the petition of the said tenants, and the decree of the court ordering the same. Title.

SEC. 3. *Be it further enacted*, That whenever application shall be made to the Court of Pleas and Quarter Sessions of said counties, by joint tenants or tenants in common for the sale of real estate which is Joint tenants.

encumbered with dower, it shall and may be lawful for the court, if the person entitled to dower be a party to such application, to decree such sale, and to cause a third part of the proceeds thereof to be secured to the use of the person so holding or entitled to dower therein for life, or to ascertain the value of such life estate in such land, and to decree such valuation to be paid over to the person thus claiming absolutely.

Appeal.

SEC. 4. *Be it further enacted*, That any party to the petition filed as aforesaid, for the sale of real estate for division, shall have the right of appeal from the decree of said Court of Pleas and Quarter Sessions to the Superior courts of the said counties of Randolph and Granville.

Repeal.

SEC. 5. *And be it further enacted*, That all laws and clauses of laws, coming in conflict with the provisions of this act, be, and the same are hereby repealed, so far as the same may relate to the counties of Randolph and Granville, and this act shall be in force from and after its ratification:

[Read three times and ratified in General Assembly
this 25th day of December, A. D., 1852.]

CHAPTER XLII.

AN ACT CONCERNING THE SUPERIOR COURTS OF RANDOLPH, ALAMANCE, AND CURRITUCK COUNTIES.

SEC. 1. *Be it enacted by the General Assembly of* Certificate.
the State of North Carolina, and it is hereby enacted
by the authority of the same, That it shall not be
lawful for the clerks of the superior courts of Ran-
dolph, Alamance, and Currituck counties to issue cer-
tificates to the presiding judges of any superior court
of said counties, until twelve o'clock Saturday of
each week in which the said court shall be held, unless
the business of said courts shall have been despatched
before that time: *Provided,* That this act shall not be
so construed as to prevent the clerks from issuing the
certificate, should any unavoidable circumstance hap-
pen to prevent the courts from being held the pre-
scribed time.

SEC. 2. *Be it further enacted,* That this act
be in force from and after its ratification.

[Read three times and ratified in General Assembly
this 20th day of November, A. D., 1852.]

CHAPTER XLIII.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT CONCERNING RUTHERFORD," PASSED AT THE SESSION OF 1850-1.

*Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the county courts of Burke, Rutherford and McDowell counties respectively, a majority of the acting justices of the peace for the respective counties being present, shall have power to discontinue any road or roads which may have been laid off under said act, or that may hereafter be laid off under said act; and the said county courts of said counties may have and exercise the same power and control over any roads laid off and established under said act entitled "An act concerning Rutherford," within the respective counties as they now have and exercise over other public roads, and said roads may be discontinued by said courts before they are opened and cut out: *Provided* a majority of the justices of the peace are present when the order is made by any one of said courts discontinuing the road or roads within the county where said court has jurisdiction.*

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1851.]

CHAPTER XLIV.

AN ACT TO PROVIDE FOR THE HOLDING THE COUNTY AND SUPERIOR COURTS IN THE SEVENTH JUDICIAL CIRCUIT.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the county courts of* ^{County courts, when held.} *the county of Jackson shall be held on the third Mondays in March, June, September and December in each and every year, and the county courts of Haywood on the fourth Mondays in said months, and in the county of Henderson on the first Monday after the fourth Monday in March, June, September and December, and in the county of Buncombe on the second Monday after the fourth Monday in March, June, September and December; in the county of Madison on the third Monday after the fourth Monday in March, June, September and December; in the county of Yancy on the fourth Monday after the fourth Monday in March, June, September and December; in the county of McDowell on the fifth Monday after the fourth Monday in March, June, September and December; in the county of Caldwell on the sixth Monday after the fourth Monday in March, June, September and December; and, in the county of Watauga, on the third Mondays in February, May, August and November in the county of Burke on the eighth Monday after the fourth Monday in March, June, September and December; in the county of Rutherford on the ninth Monday after the fourth Monday in March, June, September and December; in the county of Cleveland on the tenth Monday after the fourth Monday in*

March, June, September and December in each and every year.

Superior courts,
when to be held

SEC. 2. *Be it further enacted*, That the superior courts of law and courts of equity for the county of Jackson shall be held on the third Monday in March and September in every year; and for the county of Haywood on the fourth Monday in March and September; in the county of Henderson on the fourth Monday after the fourth Monday in March and September; in the county of Buncombe on the second Monday after the fourth Monday in March and September; in the county of Madison on the third Monday after the fourth Monday in March and September; in the county of Yancy on the fourth Monday after the fourth Monday in March and September; in the county of McDowell on the fifth Monday after the fourth Monday in March and September; in the county of Caldwell on the sixth Monday [after the fourth Monday] in March and September; in the county of Watauga on the seventh Monday after the fourth Monday in March and September; in the county of Burke on the eighth Monday after the fourth Monday in March and September; in the county of Rutherford on the ninth Monday after the fourth Monday in March and September; and, in the county of Cleveland on the tenth Monday after the fourth Monday in March and September in each and every year.

Places of holding county
court of Jackson.

SEC. 3. *Be it further enacted*, That the first county court for the county of Jackson shall be held at the dwelling-house of Daniel Bryson, senior, and thereafter, until the court house is built, at such place as the county court (a majority of the justices being present) shall direct, and, after the court house is built, the courts shall be held in such court house, and the

superior courts shall be held at the same place as the county courts.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

CHAPTER XLV.

AN ACT TO GIVE EXCLUSIVE JURISDICTION TO THE SUPERIOR COURTS FOR THE COUNTY OF STANLY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That from and after the passage of this act, the superior court for the county of Stanly shall have exclusive jurisdiction over all cases where the intervention of a jury shall or may be necessary. Exclusive jurisdiction granted

SEC. 2. *Be it further enacted,* That it shall be the duty of the sheriff of said county to make return of all writs that shall be in his hands, returnable to the county court, after the passage of this act, to the superior court next thereafter, in the same manner as if the same were returnable to the said superior court. Duty of sheriff.

SEC. 3. *Be it further enacted,* That all the suits now standing on the docket of the county court, shall remain to be tried in the said court at the next succeeding term after the passage of this act, and the re- Suits on docket, how to be disposed of.

maining suits untried, it shall be the duty of the clerk of the said county court to transfer to the clerk of the superior court, together with the papers thereunto belonging, where the same shall be tried, or otherwise disposed of.

Conflicting
laws repealed.

SEC. 4. *Be it further enacted*, That all laws and clauses of laws coming within the meaning and purview of this act, be and the same are hereby repealed.

[Read three times and ratified in General Assembly, this 8th day of November, A. D., 1852.]

CHAPTER XLVI.

AN ACT TO REPEAL IN PART THE FIFTH SECTION OF AN ACT PASSED BY THE GENERAL ASSEMBLY AT ITS SESSION OF 1850-51, ENTITLED "AN ACT TO ESTABLISH A SUPERIOR COURT OF LAW AND EQUITY FOR THE COUNTY OF WATAUGA."

Act of 1850-51
partially re-
pealed.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That so much of the above recited act as requires the spring and fall terms of the courts of pleas and quarter sessions for the county of Watauga to be held at the same time and on the same week on which the superior courts of law and equity for said county are or shall be held, be and the same is hereby repealed.

SEC. 2. *Be it further enacted*, That the term of the courts of pleas and quarter sessions for said county of Watauga shall hereafter be held on the third Monday in February, May, August, and November in each and every year. Courts, when to be held.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

CHAPTER XLVII.

AN ACT TO PROVIDE FOR THE HOLDING OF AN EXTRA TERM OF THE SUPERIOR COURT OF WAKE.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That there shall be held an extra term of the superior court for the county of Wake; the time of holding the same, to be designated by the Judge who may hold the superior court for said county, at its next spring term; and the Judge for holding said extra term to be appointed by the Governor, and who shall receive for his services one hundred dollars, to be paid by the county trustee of Wake county on the certificate of the clerk of said court, and the said term shall be held and continued for two weeks, if the business of the court shall so require. Judge to be appointed by Governor.

Jurors.

SEC. 2. *Be it further enacted*, That it shall be lawful for the sheriff of Wake to summon such number of jurors as the order of the Judge, designating the time of holding said extra term shall require; and in executing said order, the sheriff may summon freeholders as well from any other adjoining counties, as from the county of Wake; and said court shall have the same power and authority, and witnesses shall be subpœned and be governed in like manner by the same rules as are conferred on the extra term of the superior courts, as are now authorized by law.

SEC. 3. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 27th day of December, 1852.]

THE DEAF AND DUMB AND THE BLIND.

CHAPTER XLVIII.

AN ACT TO AMEND SEVERAL ACTS OF THE GENERAL ASSEMBLY IN RELATION TO THE DEAF AND DUMB, AND THE BLIND.

Tax extended.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That the act passed at the session of the General Assembly for 1848-9, en-

titled "An act to provide more effectually for the education of the deaf mutes within this State," be so amended as to include the blind in all the provisions of said act, and also to extend the term for which the tax of seventy-five dollars is to be levied, to seven years instead of four.

SEC. 2. *Be it further enacted*, That the sixth section of the act passed at the session of the General Assembly for 1848-9, entitled "An act to establish a board of directors for the deaf and dumb institution of this State," be so amended as to make the corporate title of the institution as follows, to wit: "The North Carolina Institution for the education of the Deaf and Dumb, and of the Blind." Corporate title.

SEC. 3. *Be it further enacted*, That the first section of the act of the General Assembly, passed at the session for 1844-5, entitled "An act to provide for the education and maintenance of the poor and destitute deaf mutes and blind persons in this State," be so amended as to make the annual appropriation to the institution eight thousand dollars.

SEC. 4. *Be it further enacted*, That this act shall take effect and be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 25th day of December, A. D., 1852.]

INSOLVENT DEBTORS.

CHAPTER XLIX.

AN ACT EXPLANATORY OF AN ACT PASSED AT THE
SESSION OF 1838-'9.

Construction of
former act.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the act of Assembly passed at the Session of 1838-'9, entitled an act concerning insolvent debtors, shall not be so construed as to prevent any court of record in this State from administering the insolvent debtor's oath, and thereby discharging any defendant who may be convicted and in execution for the fine and costs of prosecution, without first committing said defendant to jail for twenty days.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

DEBTS.

CHAPTER L.

**AN ACT TO FACILITATE THE RECOVERY OF DEBTS
DUE FROM NON-RESIDENT DEBTORS.**

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That hereafter, when any debtor who resides beyond the limits of this State, shall have any personal estate or effects in the hands of any executor, administrator or trustee in this State, it shall be lawful for any creditor of said non-resident debtor, to file a bill in equity against the said debtor and other necessary and proper parties to the suit, and to prove his debt upon the hearing of the said suit, and obtain a decree for the payment of the amount of his debt, to be satisfied out of the said estate and effects; and that it shall not be necessary in such cases for the creditor to obtain a judgment at law, and issue an execution thereon before filing his bill in a court of equity.

Process in case
of non-resident
debtors.

SEC. 2. *Be it further enacted,* That no final decree shall be made subjecting any estate or effects in the hands of an executor or administrator to the payment of any debt due from a non-resident debtor, until after the lapse of two years from the time of the qualification of said executor or administrator; and that it shall be the duty of the court, whenever any decree may be made as aforesaid, to require of the creditor to give such a refunding bond as the debtor

Final decree.

himself would have been required to give, if he had received from the executor or administrator his legacy or distributive share.

Creditor to file
a bill.

SEC. 3. *Be it further enacted*, That it shall be lawful for the creditor in such cases, to file his bill before the expiration of two years, and that the said bill, when filed, shall render null and void any assignment thereafter made by the debtor, so far as the said assignment may tend to defeat the plaintiff in the collection of the debt for which he may obtain a decree.

Indemnity re-
quired.

SEC. 4. *Be it further enacted*, That when any decree shall be made under the provisions of this act against any executor, administrator or trustee, it shall be lawful for the court in the decree which may be made in the cause, to require from the creditor a full and ample indemnity, such as the court may deem reasonable and proper under all the circumstances, to protect and defend said executor, administrator or trustee against all loss in consequence of said decree, if said executor, administrator or trustee should be sued by debtor in a court of any other State, in which the said decree might not be recognized as binding.

Final decree.

SEC. 5. *Be it further enacted*, That no final decree against a trustee under the provisions of this act, shall be made until after the affairs of the trust are closed and settled; but that the bill may be filed before that time, and when filed, shall render null and void any assignment thereafter made, so far as assignment may tend to defeat the plaintiff in the collection of the debts for which he may obtain a decree.

Decree.

SEC. 6. *Be it further enacted*, That no decree shall be made in favor of any creditor under this act,

unless he shall make it appear to the satisfaction of the court, that the debtor hath no estate or effects in this State, upon which an original attachment might be levied.

SEC. 7. *Be it further enacted*, That whenever a bill shall be filed under the provisions of this act, it shall be required of the plaintiff to make affidavit as to the truth of the facts therein set forth, according to the course and practice in courts of equity in those cases in which bills are required to be sworn to. Affidavit required.

SEC. 8. *Be it further enacted*, That any defendant in said bill who resides beyond the limits of this State, may be made a party by publication, in some newspaper, in the same manner, as is usual in courts of equity as to non-resident defendants. Publication.

SEC. 9. *Be it further enacted*, That this act shall take effect from and after the date of its ratification.

[Read three times and ratified in General Assembly this 23d day of December, A. D., 1852.]

CHAPTER LI.

AN ACT IN RELATION TO THE COLLECTION OF PARTNERSHIP AND OTHER DEBTS.

No act of a partner binding upon copartners after expiration of term of co-partnership.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That in the trial of all actions grounded upon any lending, contract or promissory note, which may be commenced before a magistrate or in any of the courts of law and Equity for this State, to recover any debt or demand due from any firm after the dissolution thereof or from the makers of any promissory note, no act, admission acknowledgment, done or made by either partner after the dissolution of the co-partnership, or by the maker of any promissory note, after the statute of limitations shall have become a bar thereto, shall be received as evidence to repel the statute of limitations, but as against the partner or the maker of the promissory note, doing or making the same.

Evidence in support of plea of statute of limitations.

SEC. 2. *And be it further enacted,* That on the trial of any suits before any of the courts of this State, the time during which, the parties to a suit shall not have been a resident of this State, shall not be given in evidence in support of the plea of statute of limitations.

Repealing clause.

SEC. 3. *Be it further enacted,* That all laws and clauses of laws, coming in conflict with this act be, and the same are hereby repealed.

[Read three times and ratified in General Assembly, this 17th day of December, A. D., 1852.]

DEPOT OF ARMS.

CHAPTER LII.

AN ACT TO AMEND AN ACT PASSED AT THE SESSION OF THE GENERAL ASSEMBLY OF THE STATE OF NORTH CAROLINA, HELD IN THE YEARS 1848-9, ENTITLED "AN ACT TO AMEND AN ACT PASSED AT THE SESSION OF THE LEGISLATURE OF 1846-7, ENTITLED AN ACT AUTHORIZING THE GOVERNOR TO ESTABLISH A DEPOT OF ARMS AT NEWBERN," AND TO VALIDATE THE PAYMENTS HERETOFORE MADE BY THE PUBLIC TREASURER TO THE KEEPER OF SAID DEPOT.

SEC. 1. *Be it enacted by the General Assembly* Salary. *of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the keeper of said depot shall hereafter receive one hundred and fifty dollars yearly, one half thereof to be paid semi-annually for the rent and services in the said act mentioned, and that the payments heretofore made by the public treasurer to the keeper of said depot for said rent and services, be and the same are hereby validated.

SEC. 2. *Be it further enacted,* That this act shall take effect and be in force from and after its passage.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

DIVORCE AND ALIMONY.

CHAPTER LIII.

AN ACT TO AMEND THE NINTH SECTION OF THE THIRTY-NINTH CHAPTER OF THE REVISED STATUTES ENTITLED "AN ACT CONCERNING DIVORCE AND ALIMONY."

Amendment of
act concerning
divorce and ali-
mony.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That whenever any petition or libel shall be filed by any married woman in any superior court of law or any court of equity in this State for a divorce, either from bed and board or from the bonds of matrimony, and for alimony, the said courts shall have power at the term of the court to which process thereon shall be returned, or at any term thereafter during the pendency of said suit, to decree such reasonable and sufficient alimony to said married woman as in the discretion of the court may be necessary for the support and maintenance of herself and family, pending the said suit: *Provided,* That it shall be in the power of the said court at any time during the pendency of said suit, upon due notice and cause shown to alter or modify said decree as the circumstances of the case may require.

[Read three times and ratified in General Assembly,
this 25th day of December, A. D., 1852.]

DRAINING OF LOW LANDS.

CHAPTER LIV.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT CONCERNING THE DRAINING OF LOWLANDS."

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina. and it is hereby enacted by the authority of the same,* That hereafter, upon the hearing of any petition filed as by said act directed, it shall be the duty of the court, instead of appointing the freeholders, as now provided, to order a writ to be issued to the sheriff of their county commanding him to summon a jury of eighteen freeholders, unconnected with the parties by consanguinity or affinity, and entirely disinterested, to meet on the premises on a certain day, of which he shall give each party five days previous notice in writing, and it shall be the duty of the jury formed by drawing twelve out of the eighteen so summoned as aforesaid, (in the doing which each party may challenge either peremptorily or for cause, as in other civil cases,) to go on the premises, and decide upon the necessity of the ditch or drain asked for, and if by them deemed necessary, to lay off the said ditch or drain, and assess the damages in accordance with the provisions of said act.

Draining of low
lands.

Jury to be sum-
moned.

SEC. 2. *Be it further enacted,* That all laws and clauses of laws coming in conflict with the provisions of this act, be and the same are hereby repealed.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

ELECTION OF ELECTORS.

CHAPTER LV.

AN ACT TO PROVIDE FOR THE ELECTION OF ELECTORS OF PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES, IN THIS STATE, ON THE TUESDAY NEXT AFTER THE FIRST MONDAY IN NOVEMBER NEXT, AND TO AMEND "AN ACT PROVIDING FOR THE APPOINTMENT OF ELECTORS, TO VOTE FOR PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES." REVISED STATUTES, CHAPTER 41, AND THE ACTS CONCERNING ELECTORS OF PRESIDENT AND VICE PRESIDENT, PASSED AT THE SESSIONS OF THE GENERAL ASSEMBLY OF 1840-1, CHAPTER 26, AND 1842-3, CHAPTER 26.

Previous division set aside.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That so much of the said Acts as provides for the laying off and division of the State "into eleven districts for the purpose of choosing Electors for a President and Vice President of the United States" be and the same is hereby repealed: and that the persons qualified to vote for members of the House of Commons of the General Assembly of this State, shall meet on the Tuesday next after the first Monday of November next, at the place or places by law established in their several Counties for the election of members of the General Assembly, and then and there give their votes by ballot for ten discreet persons, one of whom shall be chosen from the State at large, and nine others, so chosen, that one shall*

actually reside within each of the Districts, established in this State, "for the purpose of electing Representatives to the Congress of the United States" by an Act of the General Assembly concerning "the division of the State into Congressional Districts," passed at the Session of 1846-7, chapter 21, and the ten persons for whom the greatest number of votes throughout the State shall appear to have been given as aforesaid, shall be and they are hereby declared to be Electors for and on behalf of the State to vote for President and Vice President of the United States at the ensuing election.

Who to be declared electors.

SEC. 2. *Be it further enacted*, That the election of Electors as herein provided for, shall be conducted in all respects, under the rules, regulations and restrictions now in force by the existing law of the State, and the returns and certificates of election held as aforesaid, shall be made in the same manner and under the same penalties as is now provided by law, and the several acts concerning the election of Electors for President and Vice President of the United States for this State, shall remain in full force except as hereinbefore provided.

Election, how conducted.

SEC. 3. *Be it further enacted*, That this Act shall take effect, and be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 19th day of October, A. D. 1852.]

CHAPTER LVI.

AN ACT TO PROVIDE FOR THE ELECTION OF ELECTORS OF PRESIDENT AND VICE-PRESIDENT OF THE UNITED STATES, AND TO LAY OFF THE ELECTORAL DISTRICTS OF THIS STATE, AND TO AMEND "AN ACT PROVIDING FOR THE APPOINTMENT OF ELECTORS," &c., REVISED STATUTES, CHAPTER 41 AND THE ACTS CONCERNING ELECTORS OF PRESIDENT &c., PASSED IN 1840, CHAPTER 26, AND THE ACT PASSED AT THE PRESENT SESSION ON THE SAME SUBJECT.

Arrangement
of districts.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That so much of said acts as provides for the laying off and the division of the State into electoral districts, be so repealed and modified, that instead of eleven districts, ten shall be substituted, and that each congressional district of this State shall make an electoral district, and that one elector shall reside in said district, and that there shall be two electors for the State, who may reside in any part of the State, which said persons shall form the electoral ticket to be voted for by the persons now qualified by law to vote for electors for president and vice-president of the United States.

Election of
electors.

SEC. 2. *Be it further enacted,* That the election of electors as herein provided for shall be conducted, in all respects, under the same rules, regulations, and restrictions now in force by the existing laws of the State, and the returns and certificates of election had as aforesaid, shall be made in the same manner and under the same penalties as is now provided by law,

and the several acts now in force shall remain in full force, except as hereinbefore provided.

[Read three times and ratified in General Assembly, this 25th day of December, A. D., 1852.]

EMBANKMENT OF LOW GROUNDS.

CHAPTER LVII.

AN ACT CONCERNING THE EMBANKMENT OF LOW GROUNDS.

WHEREAS, for the embankment of low grounds, where- Preamble.
by persons wishing to protect their own lands from overflow by an embankment, which must of necessity be erected upon or through the lands of another person or persons, so as to reach the high lands above an overflow, no remedy is provided by law :

SEC. 1. *Be it enacted by the General Assembly of* Petition.
the State of North Carolina and it is hereby enacted by the authority of the same, That any person or persons wishing to embank his or their lands and unable to do so by means of the lands of another person or persons lying between his or their lands and the high lands, it shall be lawful for such person or persons to prefer a petition to the court of pleas and quarter sessions of the county wherein the said lands, or a portion of them, may lie, setting forth the par-

Damages to be
assessed.

Proviso.

Proviso.

ticular circumstances of his or their case, situation of the lands and in what direction he or they may wish the embankment located: whereupon the court shall appoint twelve freeholders in the said county, unconnected with either party by consanguinity or affinity, who, having been summoned and sworn by the sheriff of said county, shall go upon the premises and examine the ground so petitioned to be embanked, and that through which the embankment shall pass, and also whether such embankment shall appear necessary; and, further, they shall direct the embankment to be laid out in such manner and to such an extent as in their opinion will most effectually secure the lands of the petitioner or petitioners from inundation; and the said jury shall value and assess the damages the proprietor or proprietors of the lands through which such embankment is to be made will sustain; and when the same shall appear necessary, the damages shall be paid before the petitioner or petitioners proceed to construct the embankment through or upon such proprietor or proprietors' lands; and when the petitioner or petitioners aforesaid shall have so paid to the proprietors aforesaid, or into office of the court, the damages the jury have assessed, he or they sustained, he or they, their heirs or assigns, so paying shall thereafter be vested with a good and sufficient title in fee for the lands so petitioned for and condemned so long as the said embankment shall be kept up: *Provided*, That not more than five times the base of the said embankment shall be condemned to the petitioner or petitioners: *And, provided further*, That the said petitioner or petitioners shall have given the owner or owners of said lands five days notice, in writing, of the filing of such petition before the term of the court at which the same shall be heard; and in case the said owner or owners, or any of them, are not residents of this State,

the said court shall cause [cause] publication to be made in some newspaper for six weeks.

SEC. 2. *Be it further enacted*, That in all cases where a jury is appointed for the purposes aforesaid, it shall be their duty to make a return of their proceedings to the next court of pleas and quarter sessions of the county, which shall be recorded; and each of the jury appointed as aforesaid shall be entitled to the sum of one dollar for each day that may necessarily be employed in laying off said ground, and the sheriff shall be allowed for summoning said jury the same fees as are now paid sheriffs for summoning jurors to court, which sum shall be paid by the petitioner or petitioners: *Provided*, That nothing in this act shall be so construed as to authorize the running of any embankment through the yard or curtilage of any proprietor without the consent of such proprietor: *Provided also*, That no such embankment shall be so constructed as to obstruct the free passage of water, where there is no freshet, along any ditch the owner or owners of lands so condemned may have cut for the drainage of his or their lands, or from putting a fence or passway across such embankment.

Return of proceedings to be made.

Proviso.

Proviso.

SEC. 3. *Be it further enacted*, That either party may appeal to the next superior court from the verdict of the jury, at the term of the court where the proceedings are returned, and the costs of such appeal shall be paid by the party cast therein.

Appeal may be taken.

[Read three times and ratified in General Assembly, this 12th day November, A. D., 1852.]

FELONY.

CHAPTER LVIII.

AN ACT TO AMEND THE 53^D SECTION OF THE 34TH CHAPTER OF THE REVISED STATUTES.

Accessories to
felonies indict-
able.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That hereafter any accessory or accessories to any felony may be indicted either in the county in which the felony may have been committed, or in the county in which the accessory or accessories have incited the principal felon or felons to the commission of the felony.

[Read three times and ratified in General Assembly, this 17th day of December, A. D., 1852.]

FISH.

CHAPTER LIX.

AN ACT TO REPEAL AN ACT ENTITLED "AN ACT TO PREVENT THE OBSTRUCTION OF THE PASSAGE OF FISH AT INLETS ON THE SEACOAST OF THE STATE" PASSED AT THE SESSION OF 1850-51.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the act passed by the General Assembly of this State, at its session of 1850-'51, entitled "An act to prevent the obstruction of the passage of fish at inlets on the sea-coast of this State," be, and the same is hereby repealed.

Inlets on the
sea coasts.

SEC. 2. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly,
this 4th day of December, A D.; 1852.]

JURIES.

CHAPTER LX.

AN ACT TO AMEND THE FOURTH SECTION OF AN ACT PASSED AT THE SESSION OF 1832-3, ENTITLED AN ACT COMPENSATING JURORS OF THE ORIGINAL PANEL IN THE COUNTY OF BEAUFORT.

Former act
amended.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted the authority of the same,* That the fourth section of an act passed at the session of 1832-3, entitled "An act compensating jurors of the original panel in the county of Beaufort," be and the same is hereby so amended, that from and after the passage of this act it shall and may be lawful for the justices of the county of Beaufort, at the first term of the court of pleas and quarter sessions of said county, which shall happen after the first day of January in each and every year, to lay such jury tax on land and lots, and their improvements, and on taxable white and black polls, in addition to that already allowed by the above recited act, together with the tax on law proceedings, as shall in their judgment be sufficient to pay the compensation now allowed by law to jurors in said county.

[Read three times and ratified in General Assembly this 29th day of November, A. D., 1852.]

CHAPTER LXI.

AN ACT TO AMEND AN ACT PASSED AT THE SESSION OF 1850-'51, ENTITLED "AN ACT TO REGULATE THE PAY OF JURORS AND WITNESSES IN THE COUNTY OF CRAVEN.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That each and every juror who, having been lawfully summoned, shall attend any of the superior courts of law or courts of pleas and quarter sessions of the county of Craven and perform the duties required by law, shall be allowed and paid, in the manner now provided by law for each and every day's attendance, the sum of one dollar, and the like sum for every thirty miles travelling to and from court. Compensation of jurors.

SEC. 2. *Be it further enacted,* That each and every person, who, being lawfully summoned, shall attend any of the aforesaid courts of Craven county as a witness, in any cause pending therein, shall be allowed for each and every day's attendance, the sum of one dollar, and the like sum for every thirty miles travelling to and from court. Compensation of witnesses.

SEC. 3. *Be it further enacted,* That all laws and clauses of laws, coming in conflict with the provisions hereof, shall be and the same are hereby repealed. Repeal of conflicting laws.

[Read three times and ratified in General Assembly, this 22nd day of December, A. D., 1852.]

CHAPTER LXII.

AN ACT TO PAY TALES JURORS IN ROCKINGHAM AND GUILFORD COUNTIES.

Jurors, how
paid.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That hereafter all tales jurors who shall be summoned in either of the courts of pleas and quarter sessions, or the superior courts of law, in the counties of Rockingham and Guilford, and who actually serve on the jury, shall be entitled to the same per diem compensation and be paid in the same way as jurors of the original panel: Provided, That no tales juror shall be allowed to prove his attendance for service actually rendered, unless such service shall be equal to one-half the day the court may be in session, and then in proportion to the service rendered: Provided, further, That all tales jurors shall be considered as discharged when they render their verdict.

[Read three times and ratified in General Assembly,
this 17th day of December, A. D., 1852.]

CHAPTER LXIII.

AN ACT TO PROVIDE FOR PAYING TALES JURORS IN THE COUNTIES OF NORTHAMPTON, WAKE, STOKES, FORSYTHE, CATAWBA, DAVIDSON, ORANGE, GREENE, RUTHERFORD, BRUNSWICK, WASHINGTON, CHOWAN AND RICHMOND.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That all persons who shall hereafter be summoned to attend as tales jurors in the county or superior courts of the counties of Northampton, Wake, Stokes, Forsythe, Catawba, Davidson, Orange, Greene, Rutherford, Brunswick, Washington, Chowan and Richmond, and who shall actually serve until the adjournment of the court, on the day in which they shall have been summoned, shall be entitled to the same per diem allowance as the regular panel jurors in said counties are now allowed by law. Compensation allowed.

SEC. 2. *Be it further enacted,* That when any tales jurors shall attend and serve more than one day at any of said courts, he shall be allowed the same per diem, and the same mileage as the regular panel jurors are allowed by law; and it shall be the duty of the clerks of the county and superior courts in said counties to give certificates to tales jurors accordingly. Per diem and mileage.

[Read three times and ratified in General Assembly, this 24th day of December, A. D., 1852.]

CHAPTER LXIV.

AN ACT TO PAY THE TALES JURORS IN THE COUNTIES OF COLUMBUS AND ONSLOW, THE SAME COMPENSATION AS IS NOW PAID TO JURORS OF THE REGULAR PANEL.

Compensation
of jurors.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That hereafter in all cases, where tales jurors shall be required to serve, in either the county or superior courts of the counties of Columbus or Onslow, they shall be entitled to the same per diem compensation as jurors summoned on the original panel, and the clerk of each court is hereby required to give each tales juror a certificate of attendance, which the sheriff or county trustee shall pay, in the same manner as jurors of the regular panel are now paid.*

SEC. 2. *Be it further enacted, That this act shall be in force from and after the day of its ratification.*

[Read three times and ratified in General Assembly, this 12th day of November, A. D., 1852.]

CHAPTER LXV.

AN ACT TO PROVIDE FOR PAYING TALES JURORS IN THE COUNTIES OF HALIFAX, NASH, GRANVILLE AND SAMPSON.

SEC. 1. *Be it enacted by the General Assembly of* Compensation *the State of North Carolina, and it is hereby enacted by the authority of the same,* That all persons who are hereafter summoned and serve as tales jurors in the county or superior courts of Halifax, Nash, Granville, or Sampson counties, shall be entitled to the same *per diem* which the regular panel jurors in said counties are allowed by law.

SEC. 2. *Be it further enacted,* That when any Mileage tales juror is summoned to attend, and does attend more than one day at any court of the said counties, he shall be entitled to the same pay for mileage as the regular panel jurors are now allowed by law; and it shall be the duty of the clerks of the said counties to issue certificates for such juror's attendance.

[Read three times and ratified in General Assembly, this 12th day of November, A. D., 1852.]

CHAPTER LXVI.

AN ACT AUTHORIZING THE MAJORITY OF ACTING JUSTICES OF MACON TO ABOLISH JURY TRIALS IN THE COUNTY COURT OF SAID COUNTY.

Power granted
to abolish jury
trials by order
of court.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the court of pleas and quarter sessions for the county of Macon, (a majority of the acting justices being present) shall have power to dispense with, and abolish jury trials in said court, at any time hereafter, by an order of said court, and upon said order being made and duly entered of record, it shall be the duty of the clerk of said court, to make out a full, true, and perfect transcript of all the causes, both criminal and civil, pending in said court, in which the intervention of a jury may be necessary, and transmit the same, together with the original papers, to the superior court of law, for said Macon county, next succeeding the term when the order may be made by the said court of pleas and quarter sessions, abolishing jury trials therein; and the said causes, when so transmitted, shall stand for trial in said superior court of law, as other causes originally instituted and pending in said superior court of law.

Causes to be
transferred to
superior court.

SEC. 2. *Be it further enacted,* That after said order shall be made abolishing jury trials in said court, it shall be the duty of the clerk of said court to transmit all causes which may be returned to said court, at any term thereafter, where issues are made up, requiring the intervention of a jury, to the superior court of law of Macon county, and said superior

court of law shall have jurisdiction of said causes, as in cases of appeal from the county to the superior court.

SEC. 3. *Be it further enacted*, That issues of ^{Issues of devi-} ~~devi-avit vel non~~ ^{savit vel non.} may be made up and entered of record by order of said court, touching the execution of any and all paper writing offered for probate as the last will and testament of any persons after said order abolishing jury trials may be made, and said issues, when made up, shall be transmitted to the superior court of law of Macon county, to be there tried, as if the same had been carried up to said superior court by order of said court, all issues made up under the provisions of the act of Assembly relating to bastard children, shall be transmitted to said superior court for trial as provided in the first section of this act.

SEC. 4. *Be it further enacted*, That if the time ^{Criminal} ~~when~~ ^{causes, how to} said court of pleas and quarter sessions shall ^{be disposed of.} make an order abolishing jury trials in said court, there shall be any criminal cases pending in said court, prosecuted therein in the name of the State, said court shall have power to bind over and recognize the defendants and witnesses in said cases, to appear at the next superior court of law of Macon county, next succeeding said order, and the said superior court shall have the same jurisdiction as upon appeals in like cases from the county to the superior court.

SEC. 5. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly this 27th day of December, A. D., 1852.]

LITERARY INSTITUTIONS.

CHAPTER LXVII.

**AN ACT TO INCORPORATE LITERARY INSTITUTIONS
AND BENEVOLENT AND CHARITABLE SOCIETIES.**

Manner of in-
corporation.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful for any number of persons, not less than seven, desirous of engaging in any scheme of charity or benevolence, or for the encouragement or promotion of education, to become incorporated in the manner following: such persons shall, by articles of agreement under their hands and seals, acknowledge before the clerk of the county court where such association shall hold its meeting, and recorded in a book to be kept for that purpose, stating as follows: 1st, their corporate name; 2nd, the business proposed; 3rd, the place where it is proposed to be carried on; 4th, the length of time desired, not exceeding thirty years; 5th, the names of persons who have subscribed.

Letters patent
to be issued.

SEC. 2. *Be it further enacted,* That the said articles of agreement, after having been thus acknowledged and recorded, shall be transmitted to and filed in the office of the secretary of State, whereupon the governor shall issue *letters patent*, under the *Great Seal of the State*, declaring said persons and their successors a corporation, according to terms prescribed in said articles of agreement, and cause notice thereof to be published in

some newspaper in the county where such articles of agreement are recorded, which notice shall set forth the substance of said articles of agreement. If no newspaper is published in said county, then the publication to be made in the newspaper of some neighboring county.

SEC. 3. *Be it further enacted,* That each association of persons incorporated according to the provisions of this act shall have power, by their corporate name, to sue and be sued, plead and be impleaded, may acquire, hold and transfer such real, personal or mixed estate or property as may be necessary to carry out the purposes of their creation; shall each have succession and a common seal, to be altered and renewed at pleasure; shall have power to elect the necessary officers and make all rules, regulations and by-laws not inconsistent with the laws of this State, and that each of said associations thus incorporated shall have all the powers and privileges and be subject to all the liabilities applied to corporations in chapter twenty-six of Revised Statutes of North Carolina, and that each of said corporations shall pay a fee of one dollar to the clerk of the county court for proving and recording such articles of agreement, the expense of publication and a fee of one dollar for charter. Powers.

[Read three times and ratified in General Assembly, this 8th day of November, A. D., 1852.]

LAND ENTRIES.

CHAPTER LXVIII.

AN ACT TO EXTEND THE TIME OF PERFECTING TITLES TO LANDS HERETOFORE ENTERED.

Limitation of
time.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That all persons who have made entries of vacant lands and paid the purchase money to the State for the same, since the first day of January, 1835, shall have until the first day of January, 1855, to perfect their titles to the same by grant.

Proviso.

SEC. 2. *Be it further enacted,* That all persons of this State who have made entries of lands according to law since the first day of January, 1842, and have not paid the purchase money to the State, shall have until the first day of January, 1855, to make said payments and perfect their titles to said land: *Provided,* That nothing in this act contained shall be so construed as to affect the titles of persons who have heretofore obtained grants to said lands, or the rights of junior entries, or to extend to swamp lands in the eastern portion of the State.

SEC. 3. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

RE-ASSESSMENT OF LANDS, &c.

CHAPTER LXIX.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE FOR A REASSESSMENT OF THE LANDS OF THIS STATE, AND A MORE ACCURATE ENLISTMENT OF THE TAXABLE POLLS."

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the first section of an act entitled "An act to provide for a reassessment of the lands of this State, and a more accurate enlistment of the taxable polls," passed by the General Assembly at the session of 1846 and 1847, which provides that it shall be the duty of the county courts in this State, at their respective terms when they appoint justices of the peace to take the list of taxable property for the year one thousand eight hundred and forty-seven, and at the same term every eight years thereafter, to appoint two respectable freeholders, men of skill and probity to be associated with each justice, who, together with such justice, shall be styled the board of valuation. It shall be the duty of the board of valuation to ascertain either upon a view of the premises or otherwise, as accurately as may be practicable, the cash valuation of the lands, with the improvements thereon, within the tax or captain's district to which they respectively belong, and to return the same to their respective county courts in the manner herein prescribed; be amended so far as its operation extends to the town of Wilmington, and no further, so as to read as follows: That it

Board of valuation.

shall be the duty of the county court of New Hanover, at the term of the court in the year one thousand eight hundred and fifty-three, when justices of the peace are appointed to take in the list of taxables, and at the same term every two years thereafter, to appoint two respectable freeholders, men of skill and probity, to be associated with the justice of the peace appointed to take the list of taxable property for the town of Wilmington, who, together with such justice, shall be styled the board of valuation for the town of Wilmington. It shall be the duty of the said board of valuation to ascertain, either upon a view of the premises or otherwise, as accurately as may be practicable, the cash valuation of the lands with their improvements thereon, within the corporate limits of the town of Wilmington, and to return the same to the county court of New Hanover in the manner provided by law for the returns of the board of valuation of the different counties.

SEC. 2. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

CHAPTER LXX.

AN ACT TO PERFECT TITLES TO LANDS ENTERED IN THE COUNTY OF MACON PREVIOUS TO THE 15TH OF MARCH 1852.

WHEREAS, Many entries of vacant land in the Preamble.
county of Macon, were made in the office of the entry taker of said county, in the years 1850-51-52, while William Tatham, the former entry-taker, was continuing to hold said office, after the expiration of his term of office, whereby doubts have arisen as to the legality of the entries so made, for remedy whereof,

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That all the entries made in the entry-taker's office of said county of Macon, previous to the 15th day of March, 1852, be, and the same are hereby declared valid, from the dates of the respective entries, or from the time at which they were respectively entered, on the books belonging to said office as fully in every respect as if the said William Tatham had been regularly reappointed or elected to said office and complied with the requirements of the law; and the warrants, surveys, and grants that may have heretofore been issued and made, or which may hereafter be issued or made on or by virtue of such entries, shall be held and taken to be valid to all intents and purposes, as if the said William Tatham had been rightfully exercising said office of entry-taker. Entries declared valid.

[Read three times and ratified in General Assembly this 12th day of November, A. D., 1852.]

REVISAL OF THE STATUTE LAWS.

CHAPTER LXXI.

AN ACT TO CONTINUE THE COMMISSION TO REVISE
AND DIGEST THE PUBLIC STATUTE LAWS OF THE
STATE.

Names of
Commissioners

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Asa Biggs and Bartholomew F. Moore, Esqs., be and are hereby appointed commissioners to revise and digest the public statute laws of the State, under the like powers and instructions as are prescribed in the act of the last session of the General Assembly, entitled an act for revising and digesting the public statute laws of the State, and they are directed to report the laws, when digested, on printed sheets, in like manner as they were reported to the General Assembly in the year eighteen hundred and thirty-six, by the commissioners theretofore appointed to revise the laws, and that said commissioners may contract for the printing, to be paid for by the next General Assembly.*

Additional
Commissioner.

SEC. 2. The Governor is hereby authorized to appoint the Hon. Thomas Ruffin an additional commissioner to aid in revising said laws, whose compensation shall be the same as that of the other commissioners.

Vacancy to be
filled by Gov-
ernor.

SEC. 3. In case of the death, refusal to act, or resignation of either of the two first named commissioners, the Governor may fill the vacancy.

SEC. 4. The commissioners, in order to com- Clerk.
plete their work may employ a clerk at a compensa-
tion not exceeding three hundred dollars.

SEC. 5. So much of the act of the last session Partial repeal
as is inconsistent with this is hereby repealed. of former act.

SEC. 6. Said commissioners shall consider the Further duty of
expediency and propriety, and to what extent, of Commissioners
preparing and reporting to the next General Assembly
such bills as may be necessary and effectual to abolish
the forms of proceedings in civil practice in courts of
law, and providing a system of practice by which all
civil suits in said courts shall be instituted by petition
in writing, and the defenses thereto made, by demurrer
or by answer on oath, and by which plaintiffs shall be
also required to answer on oath such interrogatories
filed by the defendants as are material to the matters
in issue, and the answers so obtained to the petition
and interrogatories may be read as evidence to the
jury on the trial, at the option of the adverse party.

[Read three times and ratified in General Assembly
this 27th day of December, A. D., 1852.]

LEGACIES.

CHAPTER LXXII.

**AN ACT TO AMEND THE 1ST SECTION OF THE 64TH
CHAPTER OF THE REVISED STATUTES.**

In what partic-
ulars amended.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the first section of the sixty-fourth chapter of the Revised Statutes, entitled "Legacies, Filial portion and distributive shares," be so amended, that hereafter, when any person dies intestate possessed of personal estate, leaving a widow, but leaving no child or children nor any issue of the same, one half of said estate shall be allotted to said widow, and the residue of said estate shall be distributed as now provided by law: *Provided,* That if the husband makes a will and the widow dissents from the same, she shall only be entitled to one-third of the personal estate, and the residue thereof shall be distributed as now directed.

Repeal of con-
flicting laws.

SEC. 2. *Be it further enacted,* That all laws coming in conflict with the provisions of this act be repealed, and that this act be in force from and after its ratification.

[Read three times and ratified in General Assembly,
this 21st day of December, A. D., 1852.]

LUNATICS.

CHAPTER LXXIII.

AN ACT TO AMEND AN ACT PASSED AT THE SESSION OF 1848 AND 1849, ENTITLED "AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A STATE HOSPITAL FOR THE INSANE IN NORTH CAROLINA, AND AN ACT SUPPLEMENTAL TO THE SAME."

SEC. 1. *Be it enacted by the General Assembly* Name changed
of the State of North Carolina, and it is hereby enacted by the authority of the same, That from and after the passage of this act the name of the said institution shall be changed from that of a State Hospital for the Insane in North Carolina to that of Lunatic Asylum for the State of North Carolina, and the same shall be hereafter so known and called.

SEC. 2. *Be it further enacted,* That so much of Partial repeal of 6th section of former act. the sixth section of said act as requires that the superintending physician of said asylum shall, with his family, reside constantly in the institution, be and the same is hereby repealed.

SEC. 3. *Be it further enacted,* That a skilful and Medical Superintendent. competent medical superintendent be forthwith appointed by the commissioners, whose duty it shall be to take charge of the building of said asylum, to superintend its construction; to see that the work is properly and faithfully executed, in every respect, according to the plans and specifications which may from time to time be furnished; to suggest such im-

provements or alterations in said plans as he may think necessary; to contract for all materials which may be required for the construction of said building, and inspect the same and see that no improper or defective material be used, and to perform all such other duties as may be required of him by the commissioners to insure a due and faithful execution of said work; that the said superintendant shall hold his office for the space of two years; shall enter into bond, with two or more sureties, to be approved by the commissioners in the sum of five thousand dollars, conditioned for the faithful discharge of his duties, which bond shall be made payable to the State of North Carolina, and shall be filed in the executive office, and the said superintendant shall receive for his salary the sum of twelve hundred dollars per annum, to be paid out of the fund appropriated for the erection of said asylum and shall be liable to be removed from his office by the General Assembly if he shall not well and faithfully discharge his said duties.

Vacancies.

SEC. 4. *Be it further enacted,* That in case of vacancy in the Board of Commissioners appointed by the said act, by death, resignation, or any other cause, it shall be the duty of the governor of the State, for the time being, by and with the advice and consent of his council, to fill said vacancy.

Requisitions.

SEC. 5. *Be it further enacted,* That all requisitions for the payment of money on account of said building shall be signed by the superintendent and approved by two or more of said commissioners, and the treasurer shall pay no requisition that is not signed and approved.

SEC. 6. Whereas, by the second section of the act supplemental to the act to provide for the establishment of the said asylum the commissioners were authorized to establish said asylum within not less than three miles of the city of Raleigh, but not within the city; and whereas the same was an error or oversight, and did not express the views or intentions of the Legislature, it is hereby declared to be the true interest [intent] and meaning of said act that the said asylum shall be constructed within three miles of the city of Raleigh, but not within the city, and the said act is hereby amended accordingly.

Re-enactment
of 5th section
of former act.

SEC. 7. *Be it further enacted*, That the fifth section of an act to provide for the establishment of a State Hospital for the Insane in North Carolina, passed at the session of 1848-'49, be and the same is hereby re-enacted, so that the said section shall be in full force and operation for the space, however, of three years only, and that the proceeds of the said taxation therein laid shall be annually during that period appropriated for the purposes herein designated.

SEC. 8. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly this 27th day of December, A. D., 1852.]

CHAPTER LXXIV.

AN ACT TO AMEND AN ACT OF 1848--49, CHAPTER 57.
ENTITLED "AN ACT TO CONFER ON COURTS CERTAIN POWERS OVER IMPRISONED LUNATICS.

Jury to be empanneled.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That if any person be confined in jail charged with a criminal offence, or upon a warrant to keep the peace, upon suggestion to the court, where said charge is pending, or to which said warrant is returnable, that said person is non compos mentis, said court shall empanel a jury to view the said person, and enquire into the truth of said suggestion; if upon the finding of said inquisition it is adjudged that said person is non compos mentis, it shall be lawful for the court of pleas and quarter sessions of the county wherein said inquisition is found, it appearing to the satisfaction of said court that said person is insolvent or unable to provide for his own proper care and maintenance, to cause said person to be removed to some hospital for the insane in or out of the State, or to be otherwise provided for at its discretion, to the end that proper means be used for his or her cure.

Appropriation authorized.

SEC. 2. *Be it further enacted,* That the said court of pleas and quarter sessions may, at their discretion appropriate from the county funds, a sum of money sufficient for the said removal and maintenance of said person non compos mentis, and other purposes of this act, and to that end may levy taxes as county taxes are now levied.

SEC. 3. *Be it further enacted*, That it shall be lawful for said court of pleas and quarter sessions, upon application made, sustained by sufficient proof, to order, that a person removed as aforesaid, be returned to said county and had before said court, in order that it may be further enquired of, whether his or her insanity continues to exist; or in order that said person non compos mentis, may be removed to some other asylum at the discretion of said court.

Reinvestigation.

SEC. 4. *Be it further enacted*, That the proceedings had under this act, shall in no manner affect any bill of indictment pending, wherein the person removed as aforesaid may be a defendant.

Return authorized.

SEC. 5. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

MATRIMONY.

CHAPTER LXXV.

AN ACT TO DECLARE WHAT PERSONS MAY INTERMARRY.

Marriage of
persons nearer
of kin than
first cousins
declared void.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That all marriages contracted hereafter between persons nearer of kin than first cousins shall be void.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

MEETING OF ASSEMBLY.

CHAPTER LXXVI.

AN ACT TO REPEAL IN PART THE 25TH SECTION OF THE 52ND CHAPTER OF THE REVISED STATUTES.

Partial repeal
of 25th section
of 52d chap.
Rev. Stat.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That so much of the twenty-fifth section of the fifty-second chapter of the*

Revised Statutes, which requires a biennial meeting of the General Assembly on the third Monday in November, one thousand eight hundred and fifty-two, be, and the same is hereby repealed.

SEC. 2. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 12th day of November, A. D., 1852.]

CHAPTER LXXVII.

AN ACT TO APPOINT THE TIME OF THE MEETING OF THE GENERAL ASSEMBLY.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the meeting of the General Assembly shall be biennially, on the third Monday in November.

[Read three times and ratified in General Assembly, this 22d day of November, A. D., 1852.]

MILITIA.

CHAPTER LXXVIII.

AN ACT TO REPEAL THE 85TH CHAPTER OF [REVISED] STATUTE PASSED BY THE GENERAL ASSEMBLY AT ITS SESSION OF 1850-'51.

Repeal of previous act.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That an act of the General Assembly, entitled "An act to divide the regiment of militia in Stokes County," chapter 85th, and passed by the General Assembly at its session of 1850-'51, and ratified the 24th of January, 1851, be and the same is hereby repealed: Provided, That a majority of the commissioned officers of the said Regiment shall, at their next court martial held for the regiment, vote against the division thereof.

Provided.

[Read three times and ratified in General Assembly this 27th day of December, A. D., 1852.]

CHAPTER LXXIX.

AN ACT CONCERNING THE MILITIA OF RUTHERFORD COUNTY.

SEC. 1. *Be it enacted by the General Assembly* Division of re-
of the State of North Carolina, and it is hereby enacted giments.
by the authority of the same, That the three regiments
of the militia of the county of Rutherford, shall be
divided into two separate and distinct regiments.

SEC. 2. *Be it further enacted,* That the colonels Convention to
of the three regiments shall call a convention of the be called.
commissioned officers, at some convenient place near
the centre of the county, for the purpose of making
said division: *Provided,* That a majority of the offi- Proviso.
cers assembled in said convention shall think proper
to order a division of the same.

SEC. 3. *Be it further enacted,* That the regi- How regiments
ment lying in the south part of the county shall be shall be num-
numbered and known as the 76th regiment, and that bered and
regiment lying in the north part of the county shall known.
be numbered and known as the 77th regiment.

SEC. 4. *Be it further enacted,* That this act be
in force from and after its ratification.

[Read three times and ratified in General Assembly
this 27th day of December, A. D., 1852.]

CHAPTER LXXX.

AN ACT TO INCORPORATE THE HAWFIELD'S VOLUNTEER REGIMENT IN THE COUNTY OF ORANGE.**Incorporation.**

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted the authority of the same,* That the officers which now are, or hereafter shall be of the Hawfields volunteer regiment, be incorporated by the name and style of the "Hawfields Volunteer Regiment," and all fines, penalties and forfeitures incurred under the operation of such rules as may hereafter be prescribed by the regiment hereby incorporated, shall be recovered in the same manner as militia fines are recovered in this State, to be appropriated to the exclusive use and benefit of the regiment aforesaid for militia purposes.

SEC. 2. *Be it further enacted,* That this act shall be in force from and after its ratification.

{Read three times and ratified in General Assembly
this 27th day of December, A. D., 1852.}

MINING AND MANUFACTURES.

CHAPTER LXXXI.

AN ACT TO ENCOURAGE THE INVESTMENT OF CAPITAL FOR MINING AND MANUFACTURING PURPOSES.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful hereafter for any number of persons not less than five, desirous to engage in the business of mining, or to establish any manufactory at any place within this State, and wishing to become incorporated for convenience in raising the necessary capital and in conducting the business, to become incorporated in the manner following: Such persons shall, by articles of agreement under their hands and seals, acknowledged before the clerk of the county court of the county where such mining is to be conducted or manufactory established, to be recorded by him in a book to be kept for that purpose, determine and state as follows: 1st, The corporate name; 2d, The business proposed; 3d, The place where it is proposed to be carried on; 4th, The amount of capital; 5th, The number of shares, and the amount of each not less than fifty dollars; 6th, The length of time desired, not exceeding ninety years; and, 7th, The names of persons who have subscribed, the shares by them respectively taken, and the amount paid in cash on each share. The money so paid on each share shall not be less than one dollar per share, and shall not in the whole be less than one hundred dollars, and shall be paid to the clerk of the

Mode of incorporation.

county court of the proper county, and the certificate of the clerk acknowledging said payment shall be endorsed on the said articles of agreement.

Letters patent
to be issued.

SEC. 2. *Be it further enacted*, That on filing said articles of agreement, acknowledged and recorded as aforesaid, with the clerk's receipt endorsed as aforesaid, in the office of the secretary of State, it shall be the duty of the Governor to issue letters patent under the great seal of the State, declaring said persons and their successors a corporation according to the terms prescribed in said articles of agreement, and to cause notice thereof to be given in some newspaper published in the county where such manufactory is proposed to be established or mining conducted, which notice shall set forth the capital of said company, number and value of shares, and the substance of the said articles of agreement, and where no newspaper is published in said county, then in some newspaper published in some neighboring county.

Privileges
granted.

SEC. 3. *Be it further enacted*, That by virtue of said letters patent the said persons shall become and be a corporation according to the terms of said articles of agreement, and as such may sue and be sued, plead and be impleaded, in all courts and before all tribunals having jurisdiction of the subject matter, have and use a common seal, alter and renew the same at pleasure, make all by-laws, rules, and regulations not inconsistent with the laws of this State, necessary for the well ordering and conducting the affairs of said corporation, and may take and hold or sell all such real estate as may be necessary for the transaction of their business, or for the security or collection of their debts, and shall further have all the powers granted, and be subject to all the liabilities in chapter 26, Re

vised Statutes, respecting corporations, except that the time therein allowed shall be extended from thirty to ninety years.

SEC. 4. *Be it further enacted*, That it shall not be lawful for any company that may organize under this act to declare any dividend when the debts of the company exceed their solvent credits. When dividends shall not be declared.

SEC. 5. *Be it further enacted*, That it shall be the duty of said company on or before the expiration of each year after the organization of any company under this act, to cause to be made an exhibit of the amount of the receipts and disbursements of the company for the year next preceding, as also the liabilities and credits of said company, which exhibit shall be under the oath of the proper officer of said company, and filed in the office of the clerk of the county court of the county wherein said company may have established their business, which exhibit shall at all times be subject to the inspection of the public by said clerk. Exhibit to be prepared.

SEC. 6. *Be it further enacted* That as soon as said corporation shall be actually organized by the election of officers, the money paid to the clerk as above required, shall by him be paid over to the proper officer thereof. Money to be paid by clerk.

SEC. 7. *Be it further enacted*, That the letters patent of the Governor shall in all cases, in all courts and jurisdictions in this State be deemed and taken as prima facie evidence of the regular incorporation and organization of the company to which such letters patent may be issued, and in all questions of pleading or any suit to which said company may be a party, such letters patent shall have the full effect of an act of incorporation by a public law of this State. Letters patent to be deemed prima facie evidence of incorporation.

Letters patent
to be recorded.

SEC. 8. *Be it further enacted*, That the secretary of State shall record in a book to be kept for that purpose, all such letters patent so issued as above, and in all cases when the original letters patent are lost or mislaid, copies under the hand of the secretary shall be admitted as evidence in all controversies at law, in like manner as the originals.

Banking for-
bidden.

SEC. 9. *Be it further enacted*, That no corporations constituted by virtue of this act, shall engage in the business of banking, except that it shall be lawful for said company to issue and to take, and when necessary to endorse all such bonds, notes, and bills of exchange as may be necessary and usual in their particular trade.

Compensation
of clerks.

SEC. 10. *Be it further enacted*, That for the services required to be performed by the several clerks of the county court by the provisions of this act, each clerk shall be entitled to a fee of two dollars, to be paid by the several companies to be formed in pursuance of this act, and that each company established in pursuance of the same, shall also pay the fees for publication, and shall be subject to the revenue laws of this State.

SEC. 11. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly
this 22d day of December, A. D., 1852.]

NAVIGATION.

CHAPTER LXXXII.

AN ACT TO LEGALIZE THE TRANSFER OF THE RIGHTS OF THE CAPE FEAR NAVIGATION COMPANY, ON THE CAPE FEAR RIVER ABOVE THE MOUTH OF CROSS CREEK, AND FOR OTHER PURPOSES

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the Cape Fear Navigation company be, and they are hereby authorized to transfer or release to the Cape Fear and Deep River Navigation company, all the rights, privileges and franchises of the said Cape Fear Navigation company on and to the Cape Fear River and its tributaries above the mouth of Cross creek near Fayetteville, without prejudice to the rights of the said Cape Fear Navigation company below the mouth of said Cross creek.

Authority to transfer granted.

And whereas, by the act of 1829, entitled, "An Preamble. act concerning the commissioners of public works," the Cape Fear Navigation company is required to report in detail the operations of the company, its profits and losses, dividends and expenditures, and a general statement of its condition, annually to the Board of Internal Improvements, and the said Navigation company having complied with the requisitions of said act, therefore,

Tenth section
of act of 1812
repealed.

Biennial re-
turns required.

SEC. 2. *Be it further enacted*, That the tenth section of the act of 1812, referred to in the first section of the act of 1815, entitled "An act concerning the navigation of Cape Fear river," requiring the said Navigation company to report to the General Assembly every 25th year, be, and the same is hereby repealed, and the said company shall be, and is hereby required to make biennial returns to the Board of Internal Improvements as heretofore.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

CHAPTER LXXXIII.

AN ACT TO AMEND AN ACT (AND THE SUPPLEMENTAL THERETO,) ENTITLED "AN ACT TO IMPROVE THE CAPE FEAR AND DEEP RIVERS ABOVE FAYETTEVILLE.

Preamble.

WHEREAS, The capital stock of the company authorized by said act, has been found insufficient to complete the improvement contemplated, and whereas it is of vital importance to the State as well as individual stockholders, that said work should be carried on to its final completion, as well to save the stock already subscribed, as to promote the interests of a large number of the citizens of the State; Therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the capital stock of the Cape Fear and Deep River Navigation company may be increased to three hundred and fifty thousand dollars.

Authority to
increase capi-
tal stock.

SEC. 2. *Be it further enacted,* That the sum of eighty thousand dollars shall and may be subscribed by the Governor of the State, on behalf of the State; and the sum of forty thousand dollars shall and may be subscribed in the first instance by individuals, in shares of one hundred dollars each.

State subscrip-
tion.

SEC. 3. *Be it further enacted,* That whenever it shall be certified by the president of said company, under the corporate seal of the same, and countersigned by the treasurer thereof, that the sum of twenty thousand dollars has been subscribed by individuals, and paid into the treasury of said company, as part of the additional stock subscribed under this act, the treasurer of the State is hereby authorized and required to pay to the treasurer of said company the sum of forty thousand dollars, as an instalment on the stock subscribed on behalf of the State, as hereinbefore directed; and whenever it shall be certified, in like manner, that the further sum of ten thousand dollars has been subscribed and paid in, as aforesaid, on behalf of individuals, the treasurer of the State is hereby authorized and required to pay, as aforesaid, the further sum of twenty thousand dollars; and that whenever it shall be certified, in like manner, that an additional sum of ten thousand dollars has been subscribed and paid in, as aforesaid, by individuals, the treasurer of the State is hereby authorized and required to pay, as aforesaid, the remaining sum of twenty thousand dollars.

When the trea-
surer shall pay.

Board of commissioners.

SEC. 4. *Be it further enacted*, That, inasmuch as individuals have heretofore advanced money for the company for the prosecution of said improvement, such persons, by releasing said company from the same, shall and may be allowed to subscribe the amount of their respective claims as aforesaid, as stock in said company; and, for the purpose of ascertaining the amount advanced as aforesaid, a board shall be constituted, to be composed of two commissioners—one appointed by the Governor of the State, and the other chosen by the individual stockholders of said company—whose duty it shall be to examine and pass upon the validity of the claims preferred on account of moneys advanced to said company; and said board shall furnish each claimant with a certificate under their hands, setting forth the amount due him or her from said company, and upon the execution and delivery to the treasurer of said company of the releases hereinbefore directed, such releases, when approved by the president and attorney of said company, shall be taken and received in payment of stock to the amount of the certificates furnished by said board.

Increase of stock.

SEC. 5. *Be it further enacted*, That if the sum of one hundred and twenty thousand dollars should be found insufficient to complete said improvement, an additional sum of thirty thousand dollars may be raised by said company, either by procuring subscriptions of stock on the part of individuals, so as to increase the capital stock to three hundred and fifty thousand dollars, by this act authorized, or to issue bonds in the name and behalf of the company, signed by the president, with the corporate seal of the company, and countersigned by its treasurer, in such sums, not exceeding in the aggregate thirty thousand dollars, and upon such terms as the president and directors shall

and may prescribe; and the said president and directors are hereby authorized to pledge the nett proceeds arising from tolls, or the property of the company, for the redemption of said bonds.

SEC. 6. *Be it further enacted*, That, whenever the State directors. sum of eighty thousand dollars shall have been subscribed and paid in on behalf of the State, as hereinbefore prescribed, the Governor shall be authorized to appoint three directors on the part of the State, and the individual stockholders shall and may appoint three directors on their part.

SEC. 7. *Be it further enacted*, That no portion of the money herein authorized to be subscribed on the part of the State, shall be paid until the entire work yet to be done shall have been taken by contractors, and bond and good security by persons resident in this State, payable to the State of North Carolina, for the faithful execution and completion of the entire work for the additional sum of one hundred and fifty thousand dollars hereinbefore authorized to be raised, shall be given, to be approved by the Governor and the Attorney General.

Money not to be paid until work is let out and bonds executed.

SEC. 8. *Be it further enacted*, That the money appropriated by this act shall be, as far as practicable, in good faith so expended and appropriated, that the lock and dam near the mouth of Cross Creek, in Cumberland county, known as the Cross Creek lock and dam, shall be the first work finished; then the lock and dam known as Jones' Fall lock and dam; then the Silver Run lock and dam; then the Red Rock lock and dam; and the other locks and dams along the Cape Fear and Deep River, until the whole shall have been accomplished; and that the treasurer shall not

How money shall be expended.

pay over the second instalment provided for in this act to be subscribed and paid by the treasurer of the State, until evidence shall have been adduced to the satisfaction of the Governor and the treasurer, that the money appropriated by this act has been expended as provided for in this section.

SEC. 9. *Be it further enacted*, That this act shall take effect from and after its ratification.

[Read three times and ratified in General Assembly, this 18th day of December, A. D., 1852.]

CHAPTER LXXXIV.

AN ACT TO AMEND THE CHARTER OF THE NEUSE RIVER NAVIGATION COMPANY.

Authority to
increase capital
stock.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina. and it is hereby enacted by the authority of the same*, That the first section of "An act to incorporate the Neuse River Navigation Company" be so amended as to authorize the said company to increase the capital stock to an amount not exceeding four hundred thousand dollars.

Authority to
issue bonds.

SEC. 2. *Be it further enacted*, That the said section of said act be further amended so as to authorize the president and directors of the said company to issue bonds or notes, bearing seven per cent. interest

(which interest shall be payable semi-annually) for the purpose of borrowing money to complete their navigation.

SEC. 3. *Be it further enacted*, That the said section of said act be further amended so as to authorize the president and directors of the said company to sell or dispose of the bonds or notes of the said company authorized under that section to be issued and made payable either in this State or out of it, upon such terms as they may deem best for the interest of the company ; and the sale of any such bonds or notes, for the purpose of borrowing money to complete their navigation, shall be valid and binding on the said company : *Provided, however*, That nothing contained in this act shall be so construed as to render the State of North Carolina liable for the redemption of any such bond or bonds, which may be issued under the authority hereby granted beyond the amount of the stock which she now owns or may hereafter subscribe for in said company.

Authority to
dispose of
bonds and
notes.

Proviso.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

CHAPTER LXXXV.

AN ACT TO EXTEND THE POWER OF THE COMMISSIONERS OF NAVIGATION FOR THE PORT OF WASHINGTON.

Quarantine re-
quired.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall and may be lawful for the commissioners of navigation for the port of Washington, from time to time, by ordinances published in some newspaper, to require all vessels arriving within six miles of said town from any ports, places or sections of country to perform quarantine with their crews and passengers in such manner and for such time as said commissioners may think proper, and all vessels thereafter arriving as aforesaid from any of the ports, places or sections of country named in said ordinance or ordinances shall be deemed and taken to have come from a place which at the time of sailing was infected with a malignant or infectious disorder, so as to be liable to all the rules, regulations, restrictions and penalties imposed by law on vessels and their crew and passengers under such circumstances.

Legal process
against masters
of vessels.

SEC. 2. *Be it further enacted,* That upon any judgment which may be recovered against any master of a vessel under or by virtue of this act, a *fiери facias* execution may issue and be levied on the vessel of said master, and she may be sold under the same, in like manner as if she were the property of said master.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

CHAPTER LXXXVI.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE YADKIN NAVIGATION COMPANY."

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be the duty of the Board of Commissioners appointed under the provisions of said act to direct and authorize the opening of books for the subscription of stock in the manner therein described until the sum of twenty-five thousand dollars shall have been subscribed to the capital stock of said company, and as soon as such sum shall have been subscribed and the first installment of five dollars per share on said sum shall have been received by said board, said company shall be regarded as formed, and thenceforth the subscribers to the stock shall form one body politic and corporate for the purpose of improving the navigation of the Yadkin river from the Central Railroad bridge to Wilkesboro', by the name and style of the Yadkin Navigation Company, and shall have power and exercise all the powers and enjoy all the rights granted to the Yadkin Navigation Company by said act, and all such acts or clauses of acts as come in conflict with the provisions of this act are hereby repealed.

Authority to open books.

Corporate title.

Repeal of conflicting acts.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

STEALING NEGROES.

CHAPTER LXXXVII.

AN ACT TO PREVENT THE STEALING, TAKING OR
CONVEYING AWAY OF SLAVES.Penalty for
stealing slaves.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina and it hereby enacted by the authority of the same,* That all and every person or persons who shall steal, or by violence, seduction or any other means, take or convey away any slave or slaves, the property of another, with an intention to sell or dispose of to another, or appropriate to his, her or their own use, such slave or slaves, shall, at the time of such stealing, taking or conveying away, be in the possession actual or constructive of the owner or not, or shall, at such time, be in the possession or under the control or direction, lawful or unlawful of some other person than the owner; and all and every person or persons who shall comfort, aid, abet, assist, counsel, hire or command any person or persons to commit any such offence, shall be deemed guilty of felony, and, upon conviction thereof, shall suffer *death* without the benefit of clergy.

Indictment.

SEC. 2. *Be it further enacted,* That in an indictment on this act, it shall not be necessary to set out or over, how or with whom was the possession, direction or control of the slave or slaves at the time of the commission of the offence.

SEC. 3. *Be it further enacted*, That this act shall take effect and be in force from and after the first day of February, in the year of our Lord one thousand eight hundred and fifty-three, and not sooner.

[Read three times and ratified in General Assembly, this 24th day of December, A. D., 1852.]

NORMAL COLLEGE.

CHAPTER LXXXVIII.

AN ACT TO AMEND AN ACT, ENTITLED "AN ACT TO INCORPORATE UNION INSTITUTE, IN RANDOLPH COUNTY, A NORMAL COLLEGE."

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That J. C. Dobbin, John A. Gilmer, W. H. Washington, A. H. Sheppard, H. B. Elliott, J. M. Leach, Joseph Johnson, S. G. Coffin, A. S. Andrews, Joseph B. Cherry, N. W. Woodfin, B. Craven, James Leach, Calvin Graves, Ahi Robbins, John B. Troy, Robert Strange, John W. Thomas, Samuel Hargrave, J. P. H. Russ, M. W. Leach, W. L. Steele, R. M. Saunders, W. B. Lane, G. W. Caldwell, C. H. Wiley, Jabez Leach, John A. Lillington, J. T. Morehead, Thales McDonald, R. C. Puryear, S. P.

Corporate title.

Hill, Alexander Gray, James M. Garrett and Edward Ogburn and their successors, be, and they are hereby declared a body politic and corporate, to be known and distinguished by the name and style of "The Trustees of Normal College," and by that name and style, shall have a perpetual succession and a common seal, and be able and capable in law of holding lands tenements and chattels for the uses and purposes of said College; and of suing and being sued, and of pleading and being impleaded.

Board of Trustees.

SEC. 2. *Be it further enacted*, That the Governor of the State shall be *Ex-officio* president of the board of trustees, and that the common school superintendent, should such an officer exist, shall be *Ex-officio* secretary of the board, and that all vacancies in the board shall be filled by a majority of the trustees of said college.

Vacancies.

Powers of Trustees.

SEC. 3. *Be it further enacted*, That the trustees shall have power to fix the time of holding their annual and other meetings, of appointing a president and professors for said college, of appointing an executive committee, to consist of seven members, which committee shall control the internal regulations of said college, and fix all salaries and emoluments, and of doing all other things necessary for an institution of learning not inconsistent with the laws of this State and of the United States.

Exemption certificates.

SEC. 4. *Be it further enacted*, That the faculty and seven or more trustees shall have power to grant certificates, which shall exempt the bearer from examination by county committees throughout the State; and where certificates are now or may hereafter be required before paying out the public funds a certificate

from Normal College shall answer in lieu thereof; they shall also have power to grant such degrees and marks of honor as are given by Colleges and Universities generally. Honorary degrees.

SEC. 5. *Be it further enacted,* That the secretary of the board of trustees shall, within ten days after the meeting of each [*the*] legislature, make a full report of the condition and operations of said Normal College, and the general character of Normal instruction; also, the condition and progress of Normal schools generally, together with all other information deemed important in the education of teachers, giving also the names and residences of all who have been authorized to teach. Report.

SEC. 6. *Be it further enacted,* That the president and directors of the literary fund are hereby directed to loan to the trustees of Normal College, the sum of ten thousand dollars out of any moneys not otherwise appropriated, at six per cent. interest, to be paid semi-annually, upon said trustees giving bond and good security for the same. Loan authorized.

SEC. 7. *Be it further enacted,* That all acts and laws coming within the meaning and purview of this act be, and the same are hereby repealed. Conflicting acts repealed.

[Read three times and ratified in General Assembly this 21st day of November, A. D., 1852.]

OBSTRUCTIONS TO THE PASSAGE OF FISH.

CHAPTER LXXXIX.

AN ACT TO PREVENT THE OBSTRUCTION OF THE PASSAGE OF FISH IN THE WATERS OF BLOUNT'S CREEK AND ITS TRIBUTARY STREAMS.

Prohibition.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That from and after the passage of this act, it shall not be lawful for any person or persons to haul any sein or drawing net in the waters of Blount's creek or any of its tributary streams between the hours of sunset and five o'clock in the morning.

Various obstructions forbidden.

SEC. 2. *Be it further enacted,* That from and after the passage of this act, it shall not be lawful for any person or persons to lay out any sein or net in the waters of Blount's creek or any of its tributary streams, and let the same remain for a longer space of time than two hours, from the first of March to the fifteenth of May, neither shall it be lawful for any person or persons to erect any wear or hedge across the waters of said creek or any of its tributary streams, or fell trees or place any obstruction whatever, or make or cause to be made any wear that will prevent the passage of fish up said stream.

Penalties prescribed for white persons.

SEC. 3. *Be it further enacted,* That every free person offending against any of the provisions of this act, shall forfeit and pay for every such offence the

sum of fifty dollars to be recovered before any justice of the peace of the county of Beaufort, to the use of the person suing for the same, and if any slave shall violate any of the provisions of this act, he or they shall, on conviction before a single justice of the peace, receive thirty-nine lashes on his or their bare back. For slaves.

SEC. 4. *Be it further enacted*, That all laws and clauses of laws, coming in conflict with any of the provisions of this act, be and the same are hereby repealed. Repeal of conflicting acts.

[Read three times and ratified in General Assembly this 25th day of December, A. D., 1852.]

PERSONAL LIBERTY.

CHAPTER XC.

AN ACT TO AMEND THE 55TH CHAPTER OF THE REVISED STATUTES, ENTITLED "AN ACT FOR THE BETTER SECURITY OF PERSONAL LIBERTY."

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That any party to a writ of *habeas corpus* may procure the attendance of witnesses at the hearing by subpœnas issued by the clerk of any court of record under the same rules, regula- Witnesses in writ of habeas corpus.

tions and penalties as are prescribed by law in case of witnesses attending the courts, and the judge who shall determine such writ may adjudge and decide how and by whom the costs arising thereon shall be paid, and direct by what officer the costs shall be taxed, and such officer may issue execution therefor returnable to the next term of his court.

Costs.

[Read three times and ratified in General Assembly, this 27th day of January, A. D., 1852.]

PERSONAL PROPERTY.

CHAPTER XCI.

AN ACT TO PROTECT THE RIGHTS OF PERSONS OWNING PROPERTY IN COMMON.

By whom action may be brought.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That hereafter when one or more joint legal owners of personal property shall have cause of action for the detention of or injury done to such property so owned by them in common, and one or more of the legal owners thereof shall be barred by the statute of limitations from maintaining a suit at law for the same, the other joint owner or owners of said property not so barred by the statute of limitations from maintaining such suit shall have power,*

and he, she or they may and are hereby authorized to commence and prosecute a suit or suits for such injury or detention aforesaid, without joining the name or names of the other legal owner or owners as a party plaintiff, any law or rule of court to the contrary notwithstanding; and the jury, by their verdict, shall apportion the damages according to the interest of the plaintiff or plaintiffs in the property so detained or injured. Damages.

SEC. 2. *Be it further enacted*, That this act shall take effect and be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 23d day of December, A. D., 1852.]

PLANK ROADS.

CHAPTER XCII.

AN ACT TO DEFINE THE DUTIES AND POWERS OF TURNPIKE AND PLANK ROAD COMPANIES.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That whenever the president and directors of any turnpike or plank road, their officers, servants, agents or contractors, shall What property shall not be condemned.

enter upon the lands or tenements of any person to lay out their road agreeable to the provisions of their charter, they shall not invade or condemn to the use of the company the dwelling-house, yard, kitchen, garden or burial ground, or cut down or destroy the ornamental trees of any person, without the consent of the owner thereof.

Limitation of
quantity.

SEC. 2. *Be it further enacted*, That no more than sixty feet in width shall be condemned of any person's land for use of said road, and not more than two acres at any one place for the erection of a depot or any houses appertaining to said road.

Duty of Sheriff
to give notice.
Jurors.

SEC. 3. *Be it further enacted*, That it shall be the duty of the sheriff, when called upon to condemn any land for turnpike or plank roads, to give at least five days notice, in writing, to both parties, and to summons the jury at least five days previous, and the jurors so summoned shall be compelled under the same penalties as now require their attendance on courts, and shall receive the same compensation they are entitled to in their several counties, and the sheriff shall receive twenty-five cents for every such notice and summons.

Compensation
of Jurors and
Sheriff.

Right of appeal.

SEC. 4. *Be it further enacted*, That whenever the damages assessed by the jury for a turnpike or plank road shall not be satisfactory, either party may appeal to the county or superior courts under the rules and regulations required for appeals from judgments of justices of the peace.

Costs—by
whom to be
paid.

SEC. 5. *Be it further enacted*, That the damages assessed for condemnation, and all costs incident to the same, shall be paid by the corporation at whose in-

stance it is done, and after the inquisition containing a description of the land, with the valuation, shall have been signed by the jury and countersigned by the sheriff, it may be returned to clerk of county court and recorded, upon paying the usual fee, and any justice of the peace may render judgment and issue execution against the corporation for the damages and costs thereof.

SEC. 6. *Be it further enacted*, That each and every turnpike and plank road company shall furnish to the governor of the State, for the use of the Board of Internal Improvements and the State, a correct map and profile of each road, drawn to an uniform horizontal scale of four hundred feet to an inch, and any company failing to comply with the provisions of this section, shall forfeit one hundred dollars to the State treasury, to be recovered before any magistrate of the county where the land lies upon information of the sheriff or any other person.

Map to be furnished.
Penalty of failure.

SEC. 7. *Be it further enacted*, That the provisions of this act shall apply to and be obligatory on each turnpike or plank road company incorporated during the present General Assembly, and to any and all which may be hereafter incorporated in this State.

General application of this act.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

CHAPTER XCIH.

**AN ACT TO AMEND THE CHARTER OF THE ASHEVILLE
AND GREENVILLE PLANK ROAD COMPANY.**

Company au-
thorized to use
plank, rock or
other material.

Width.

Duration.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the charter of the Asheville and Greenville Plank Road company be so amended as to authorize the said company to use plank, rock, or any other material, for making any part of the road on the French Broad River, and make and keep it the same width that the Buncombe Turnpike company were required to make it, unless the company prefer increasing the width to sixteen feet in any portion of the road south of Hendersonville, so that said company may so change the direction of the road as to go in the direction of Spartanburg by any route that the president and directors may prefer instead of Greenville, or so as to lead to each of said towns.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

CHAPTER XCIV.

AN ACT TO INCORPORATE THE ASHBOROUGH AND SALISBURY PLANK ROAD COMPANY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful to open books in the county of Randolph under the direction of Samuel Hill, Thomas Bronson, Thomas Rice, A. S. Horney, Daniel Hackney, James M. A. Drake, Jonathan Worth, Simon Jones, Nixon Henley John A. Craven and W. B. Lane or any three of them; in the county of Davidson under the direction of Thales McDonnel, John Miller, Dr. B. Z. Beall, James Wiseman, John Bradshaw, John P. Mabry, Dr. W. R. Hall or any three of them; in the county of Rowan, under the direction of D. A. Davis, William Murphey, John J. Shaver, Joel H. Jenkins, Samuel Reeves or any three of them, and at such places, and under the direction of such other persons as the commissioners hereinbefore named to superintend the receiving of subscriptions in the county of Randolph, shall direct, for the purpose of receiving subscriptions to an amount not exceeding sixty thousand dollars in shares of fifty dollars each, for the purpose of effecting a communication between the town of Ashborough in the county of Randolph, and the town of Salisbury in the county of Rowan, by means of a plank road, the route and points of effecting this communication to be determined by the said company, after the same shall have been formed.

Books to be opened.

Capital limited.

Advertisement.

Books to be
kept open ten
days.

SEC. 2. *Be it further enacted,* That the times and places of receiving such subscriptions shall be advertised in one or more of the newspapers published and printed in the town of Salisbury, and the books for receiving the same shall not be closed within ten days after the opening, and said commissioners shall have power to open books from time to time, as they think proper, until the whole number of shares be subscribed.

Corporate title.

Powers of
Company.

SEC. 3. *Be it further enacted,* That when the sum of twenty thousand dollars shall be subscribed for, in manner aforesaid, the subscribers, their executors, administrators or assigns, shall be, and they are hereby declared to be incorporated into a company, by the name and style of "Ashborough and Salisbury Plank Road Company," and by that name shall be capable in law of purchasing, holding, selling, leasing and conveying estates, real, personal and mixed, so far as may be necessary for the purposes of said company, either in constituting or managing the affairs of said company, and shall have perpetual succession, and by said corporate name may sue and be sued, and may have a common seal, which they shall [have] power to alter or renew at pleasure, and shall have and enjoy and may exercise all the powers, rights and privileges which other corporate bodies may lawfully do, for the purposes mentioned in this act, and make all such by-laws, rules and regulations not inconsistent with the laws of this State or of the United States, as shall be necessary for the well ordering and conducting the affairs of said company.

When sub-
scription shall
be paid.

SEC. 4. *Be it further enacted,* That upon any subscription of stock as aforesaid, there shall be paid at the time of subscribing to the said commissioners

Advertisement.

Books to be
kept open ten
days.

SEC. 2. *Be it further enacted*, That the times and places of receiving such subscriptions shall be advertised in one or more of the newspapers published and printed in the town of Salisbury, and the books for receiving the same shall not be closed within ten days after the opening, and said commissioners shall have power to open books from time to time, as they think proper, until the whole number of shares be subscribed.

Corporate title.

Powers of
Company.

SEC. 3. *Be it further enacted*, That when the sum of twenty thousand dollars shall be subscribed for in the manner aforesaid, the subscribers, their executors, administrators or assigns, shall be, and they are hereby declared to be incorporated into a company, by the name and style of "Ashborough and Salisbury Plank Road Company," and by that name shall be capable in law of purchasing, holding, selling, leasing and conveying estates, real, personal and mixed, so far as may be necessary for the purposes of said company, either in constituting or managing the affairs of said company, and shall have perpetual succession, and by said corporate name may sue and be sued, and may have a common seal, which they shall [have] power to alter or renew at pleasure, and shall have and enjoy may exercise all the powers, rights and privileges which other corporate bodies may lawfully do, for the purposes mentioned in this act, and make all such by-laws, rules and regulations not inconsistent with the laws of this State or of the United States, as shall be necessary for the well ordering and conducting the affairs of said company.

When subscription shall be paid.

SEC. 4. *Be it further enacted*, That upon the subscription of stock as aforesaid, there shall be paid at the time of subscribing to the said commission

or their agent appointed to receive such subscription, the sum of one dollar on every share subscribed, and the residue thereof shall be paid or secured in such manner and at such time or times as may be required by the board of directors of said company.

SEC. 5. *Be it further enacted*, That the said commissioners or their agents, shall forthwith, after the first election of a board of directors of the company, pay over to said directors all moneys received by them, and on failure thereof, the said directors may recover the amount due from them by legal process in the court of pleas and quarter sessions, or in the superior court of law, in any county wherein any commissioner or commissioners may reside, or by warrant before any Justice of the Peace for said county.

Commissioners
to pay moneys
to Directors.

SEC. 6. *Be it further enacted*, That when twenty thousand dollars shall have been subscribed, publication of that event shall be given by said commissioners at Ashborough, who shall at the same time call a general meeting of the stockholders, at such convenient place and time as they shall name in said notice.

Publication.

Meeting of
Stockholders.

SEC. 7. *Be it further enacted*, That to constitute any such meeting, a number of persons entitled to a majority of the votes, which could be given upon all the shares subscribed shall be present either in person or by proxy, and if a sufficient number to constitute a meeting do not attend on that day, those who attend shall have power to adjourn from time to time until a meeting shall be formed.

How many
shall constitute
a meeting.

SEC. 8. *Be it further enacted*, That the subscribers at their general meeting before directed, and the proprietors of stock at any annual meeting thereafter,

Directors to be
elected.

President.	shall elect nine directors, and the directors when appointed, shall appoint one of their number president, who shall continue in office unless sooner removed until the next annual meeting after their election and until their successors shall be elected; but the said directors or any of them may at any time be removed, and the vacancy thereby occasioned, be filled by a majority of votes given at any general meeting; the president with any three or more directors, or in the event of sickness, absence or disability of the president any four or more of the directors may appoint one of their number president <i>pro tem.</i> who shall constitute a board for the transaction of business: in case of vacancy in the board of directors happening from death, resignation or otherwise, such vacancy may be supplied by appointment of the board until the next annual meeting.
Removal.	
President <i>pro tem.</i>	
Vacancies—how filled.	

Rights and powers of Directors.

SEC. 9 *Be it further enacted,* That the board of directors of said company shall be, and they are hereby invested with all the rights and powers necessary for the construction, repairs and maintenance of a plank road, to be created as aforesaid, with as many branches diverging from the main stem as they or a majority of them may deem necessary, and may cause to be made, and also to make and construct all works whatsoever [which] may be necessary to the completion of said road and all its branches.

Advances of money.

SEC. 10. *Be it further enacted,* That the said board of directors shall have power to make contracts with any person or persons on behalf of the company for making the said plank road, together with any branches of the same, and performing all other things respecting the same, which they shall judge necessary and proper, and require from the subscribers from time

to time such advances of money on their respective shares, as the wants of the company may demand until the whole of the subscriptions shall be advanced; to call, on any emergency a general meeting of the stockholders, giving one month's notice thereof in one of the newspapers printed in the town of Salisbury; to appoint such officers as they may deem necessary to transact the business of the company, taking from them bond and security for the faithful discharge of their several duties, and duly accounting for all moneys coming into their hands; to appoint such superintendents, managers, and toll gatherers as may be necessary, and generally to transact all the business of the company between the general meetings of the stockholders: *Provided*, That the stockholders in said company shall be allowed to pay any part or the whole of their subscriptions, either in cash or in work at cash value, to be estimated by the chief engineer and approved by the directors.

General meeting.

Officers of the Company.

Proviso.

SEC. 11. *Be it further enacted*, That if any stockholder shall fail to pay the sum required of him by the board of directors, or a majority of them, within one month after the time the same shall have been advertised in one of the newspapers printed and published in the town of Salisbury, it shall and may be lawful for said board of directors, or a majority of them, to sell at public auction, and to convey to the purchaser the share or shares of said stockholder so failing or refusing, giving one month's previous notice of the time and place of sale in manner aforesaid, and retaining the sum due, and all the charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner or to his legal representatives, and if the said sale shall not produce the sum required to be advanced, with all the incidental charges attending the sale, then the said board of directors may recover the

Proceedings in case of failure. Stockholder to pay.

balance of the original proprietor or his assignee, or the executor or administrator, or either of them by suit, in any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county of which he is a resident, and any purchaser of the stock of the company under a sale by order of the board of directors, shall be subject to the same rules and regulations as the original proprietor.

Power to increase capital stock.

SEC. 12. *Be it further enacted*, That if the capital stock of the company hereby incorporated shall be insufficient for the purposes of this act, or if hereafter it may be deemed expedient by a majority of the stockholders in general meeting, to extend the main stem of the said road to any other point, it shall and may be lawful for the board of directors of the said company, or a majority of them, to increase from time to time the capital stock to an amount not exceeding three hundred thousand dollars, by the addition of as many shares as they may deem necessary, by opening books in the town of Salisbury and Ashboro, and such other places and in such manner as they deem prudent and necessary, and the subscribers of such additional shares of the capital stock of said company are hereby declared to be thenceforward incorporated into the said company with all the privileges and advantages, and subject to all the liabilities of the original stockholders.

Limitation.

Lands for the location of road—how to be obtained.

SEC. 13. *Be it further enacted*, That the said board of directors, their officers or agents may agree with owners of any land over which said road is intended to pass for the purchase thereof, and in case of disagreement, or if the owners shall be *feme covert*, *under age*, *non compos*, or out of the State, on application to any two justices of the peace of the county

where the lands lie, the justices shall issue their warrant to the sheriff of said county, to summon eighteen freeholders to meet on the lands to be valued, on a day to be expressed in said warrant, not less than ten nor more than twenty days thereafter, and the sheriff, on the receipt of the warrant, shall summon the freeholders accordingly, and when met, shall draw twelve of them, who shall, after being duly sworn, [*will*] impartially value the land in question and consider [*the*] damages the owner thereof may sustain, and the inquisition so taken shall be signed by the jury and countersigned by the sheriff, and returned to the clerk of the county court to be recorded, and in all cases, the jury is hereby directed to describe the land valued, and such valuation shall be conclusive, and the said directors shall pay the same to the owners of the land valued or his legal representative, and if neither can be found in this State, or if they refuse to receive the money, then to the clerk of the county court, and on payment thereof, the said corporation shall be seized in fee of the land as fully and absolutely as if it had been conveyed to them by the owner: *Provided*, That no portion of any dwelling house, yard, kitchen, garden or burial ground shall be condemned to the use of said road without the owners consent.

Land to be described.

SEC. 14. *Be it further enacted*, That said board of directors or their agents may agree with the proprietor for any quantity of land they may deem necessary for their purposes, at or near each place or station intended for the collection of tolls, for the purpose of erecting the necessary buildings, gates, &c., and in case of disagreement or of any disability as aforesaid, or the owner or owners being out of the State, the same proceedings may be had, and the same conveyances shall follow as are described in the preceeding section:

Land for the erection of toll houses—how obtained.

Provided, That, in case of disagreement, not more than two acres of land shall be condemned to the use of said company at any one station.

Toll.

SEC. 15. *Be it further enacted*, That it shall and may be lawful for the said board of directors to demand and receive at some convenient toll gates, to be by them erected, a reasonable toll from persons using said Plank Road.

Width of road.

SEC. 16. *Be it further enacted* That the road hereby authorized to be made, shall not be less than eight nor more than sixty feet wide, and [*shall*,] as soon as five miles in extent shall have been constructed, it shall and may be lawful for the said board of directors to demand and collect such tolls from persons using said road as may be by them determined, in accordance with the rules imposed by the fifteenth section of this act, and in like proportion for a greater extent of road; and if any person or persons shall refuse to pay the toll at the time of offering to pass the place or places designated for the collection of tolls, and previous to passing the same, the toll gatherers respectively may refuse a passage to the person or persons refusing to pay, and if any person or persons shall pass or drive through or pass or drive around said place any wheeled carriage or animal liable to toll, without paying the same, he or they shall be liable to pay a fine of five dollars, which fine may be recovered by warrant before any justice of the peace of the county wherein such toll gate or point of collection is situated, and if any person or persons shall drive on or use any part of said road between the points designated for the collection of tolls, without paying the amount for which he or they may be liable, it shall be held that he or they are fraudulently using the same, and he, she, or they, shall be liable

Penalty of refusal to pay toll.

to pay a fine of five dollars, which may be recovered by warrant as heretofore provided.

SEC. 17. *Be it further enacted*, That if any person or persons shall wilfully or maliciously injure, or in any manner hurt, damage or obstruct, or shall wilfully or maliciously cause, aid, assist, *cause* or advise any other person or persons to injure, hurt, damage, or obstruct, the said road, toll gate or toll houses or any of the property or effects of said company, such person or persons, so offending, shall be liable to be indicted therefor, and on conviction, shall be imprisoned or fined at the discretion of the court before which conviction shall take place.

Penalty of injury to road.

SEC. 18. *Be it further enacted*, That distinct accounts of the proceedings and disbursements of the board shall be made by the annual meetings of the stockholders; *Provided*, That if a number of stockholders, holding one-fourth in amount of the capital stock of said company, shall ask of the board in writing a call of a general meeting of the stockholders, such meeting shall be called, and to such meeting the board shall make a report similar in all respects to one required to be made at the annual meetings.

Accounts of proceedings to be made.

Proviso.

SEC. 19. *Be it further enacted*, That whenever, in the construction of said road, it may be necessary to cross or intersect any established road or way, it shall be the duty of the board of directors so to construct the said plank road across such established roads or ways as not to impede the passage or transportation of persons or property along the same; and [if,] in the construction of said plank road, or of any toll-gate or toll-house, it may become necessary or expedient to use or change any part of any established

Proceedings in case of intersection with established roads.

public road or way, it may be lawful for said board of directors to change the said road at points where they may deem it necessary or expedient to do so, and that for entering upon or taking any land necessary therefor, they shall be and [are] hereby authorized to [proceed] provide under the provisions of this act, as in cases of land necessary for the plank road; *Provided, further,* That previous to making any change, the said company shall make and prepare [one] equally good with the road proposed to be [taken] substituted; but nothing herein contained shall be so construed as to make it incumbent on said company to keep in repair the portion of any road which they may have changed as aforesaid.

Proviso.

Duration of
charter.

SEC. 20. *Be it further enacted,* That this act shall be in force from and after its ratification, and shall be regarded as a public act and shall continue in force for thirty years.

[Read three times and ratified in General Assembly,
this 25th day of December, A. D., 1852.]

CHAPTER XCV.

AN ACT TO INCORPORATE THE CASWELL PLANK ROAD COMPANY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful to open books in the town of Yanceyville under the direction of Thomas C. Johnston, A. Slade, Allen Gunn, W. B. Bowe and John Kerr, and at such other places and under the direction of such other persons as they may select for the purpose of receiving subscriptions to an amount not exceeding fifty thousand dollars, in shares of fifty dollars each, for the purpose of constructing a plank road from Yanceyville to some point on the Virginia line, near Danville, by the most practicable route, to be determined by the company after the same shall have been formed, and the said Plank Road Company shall have power and are hereby authorized to construct a plank road from Yanceyville to Mount Ararat, on the eastern side of Haw river, in the county of Alamance, and the said company are further empowered to construct a plank road from Yanceyville to Milton, and it shall be lawful to open books at Trollinger's Factory, under the superintendence of Benjamin Tollinger, Alexander Mebane, Benj. Hurdle, and, in Graham, under the superintendence of John Faucett, William Patterson, or, under the superintendence of such other persons as they may direct, or a majority of them: *Provided, however,* That if the sum of fifty thousand dollars is not subscribed, or if a sufficient sum is not subscribed to construct the plank road from Yanceyville to the Virginia line, and the

Books to be opened.

Capital limited.

Ararat and other roads.

road to Milton, and the road to Mount Ararat, then it shall be lawful to open books as aforesaid to receive subscriptions for the purpose of constructing a plank road from Yanceyville to the Virginia line, at some point near Danville, and when a sufficient amount has been subscribed for that purpose, the said subscribers shall be incorporated under the name of the Yanceyville Plank Road [Company,] and, under that name, shall be entitled to all the rights, privileges and immunities and subject to all the restrictions of the Caswell Plank Road. *Be it further enacted*, That if the sum of fifty thousand dollars, or a sufficient sum is not subscribed to construct the Caswell Plank Road, then it shall be lawful to open books of subscription as aforesaid to receive subscription for the purpose of constructing a plank road from Yanceyville to Mount Ararat, on the eastern side of Haw river, and when the sum of fifteen thousand dollars is subscribed, the said subscribers shall be incorporated under the name of the Southside Plank Road Company, and under that name shall be entitled to all the rights, privileges and immunities as hereinafter set forth as belonging to the Caswell Plank Road Company. *Be it further enacted*, That if the sum of fifty thousand dollars, or a sufficient sum is not subscribed to construct the Caswell Plank Road [Company,] then it shall be lawful to open books as aforesaid to receive subscriptions for the purpose of constructing a plank road from Yanceyville to Milton, and when the sum of eight thousand dollars is subscribed, the said subscribers shall be incorporated under the name of the Milton Plank Road [Company,] and under that name shall be entitled to all the rights, privileges and immunities, and be subject to all the restrictions of the Caswell Plank Road Company.

Yanceyville
Plank Road.

Southside
Plank Road.

Milton Plank
Road.

Publication re-
quired.

SEC. 2. *Be it further enacted*, That the times and places of receiving subscriptions shall be adver-

tised in the Democrat printed in Yanceyville, and the books for receiving the same shall not be closed in less than thirty days ; and the said commissioners shall have power [to reopen them] from time to time, as they may think proper, until the whole number of shares are subscribed.

SEC. 3. *Be it further enacted,* That when the sum of thirty thousand dollars shall be subscribed for, in manner aforesaid, the subscribers, their executors, administrators or assigns, shall be, and they are hereby declared to be incorporated into a company by the name and style of the "Caswell Plank Road Company," and by that name and style shall be capable in law of purchasing, holding, selling, leasing and conveying estates, real personal and mixed, so far as may be necessary for the purposes of the company, and shall have perpetual succession ; and by said corporate name, may sue and be sued, and may have a common seal, which they shall have power to alter and renew at pleasure, and shall have and enjoy, and may exercise all the rights, powers and privileges, which other corporate bodies may lawfully do, for the purposes mentioned in this act, and may make all such by-laws, rules and regulations, not inconsistent with the laws of this State or of the United States, as shall be necessary for the well ordering and conducting the affairs of the company.

Caswell Plank Road.

SEC. 4. *Be it further enacted,* That upon any subscription of stock as aforesaid, there shall be paid at the time of subscribing, to the said commissioners or their agents appointed to receive such subscriptions, the sum of one dollar on every share subscribed, and the residue thereof shall be paid in such instalments, and

Payment of subscription.

at such times as may be required by the president and directors of the company.

Moneys.

SEC. 5. *Be it further enacted,* That the said commissioners or their agents, shall, after the first election of president and directors of the company, pay over to the said president and directors all moneys received by them, and on failure thereof, the said president and directors may recover the amount due from them, or from any one or more of them, by legal process in the court of pleas and quarter sessions, or in the superior court of law in any county wherein such commissioner or commissioners, their executors or administrators may reside, or by warrant before a Justice of the Peace for said county.

General meeting.

SEC. 6. *Be it further enacted,* That when twelve thousand dollars shall have been subscribed, public notice of that event shall be given by the said commissioners at Yanceyville, who shall at the same time have power to call a general meeting of the stockholders, at such convenient place and time as they shall name in said notice.

Meeting—how constituted.

SEC. 7. *Be it further enacted,* That to constitute any such meeting, a number of persons entitled to a majority of all the votes which could be given upon all the shares subscribed either in person or by proxy [shall be present ;] and if a sufficient number to constitute a meeting do not attend on that day, those who do attend shall have the power to adjourn from time to time until a meeting shall be formed.

President and Directors.

SEC. 8. *Be it further enacted,* That the subscribers at their general meeting hereinbefore directed, and the proprietors of stockholders at every annual meet-

ing thereafter, shall elect a president and nine directors, who shall continue in office unless sooner removed, until the next annual meeting after their election,, and until their successors shall be elected; but the said president and directors, or any of them, may at any time be removed, and the vacancy thereby occasioned, be filled by a majority of the votes given at any general meeting: that the president with any three or more of the directors, or in the event of the sickness, absence or disability of the president, any five or more of the directors who may appoint one of their own body president *pro tem* shall constitute a board for the transaction of business: in cases of vacancy in the office of president or of any director, happening from death or otherwise, such vacancy may be filled by the appointment of the board, until the next annual meeting of the stockholders.

SEC. 9. *Be it further enacted*, That the president and directors of the company shall be, and they are hereby invested with all the rights and powers necessary and proper for the construction, repairs, and maintaining of a plank road, to be located as aforesaid, with as many branches diverging from the main stem as they or a majority of them may deem necessary, and may cause to be made, and also to make and construct all works whatsoever which may be necessary and expedient in order to the proper construction of the said road and all its branches.

Rights and
powers of Di-
rectors.

SEC. 10. *Be it further enacted*, That the said president and directors shall have power to make contracts with any person or persons on behalf of the company, for making said plank road, together with any branches of the same, and performing all other things respecting the same which they shall judge ne-

Contracts.

cessary and proper, and to require from the subscribers from time to time, such advances of money on their respective shares, as the wants of the company may demand, until the whole of their subscriptions shall be advanced; to call, on any emergency a general meeting of the stockholders, giving one month's previous notice thereof in the *North Carolina Democrat*, or some other newspaper printed in Yanceyville; to appoint a treasurer from among the stockholders, but not of their own body, who shall give bond and security for the faithful discharge of his duty, and duly accounting for all of the money which may come into his hands as treasurer; to appoint a clerk and such managers and toll gatherers as they may deem necessary, and to transact all the business of the company during the intervals between the general meetings of the stockholders.

Failure of
Stockholder to
pay.

Proceedings.

SEC. 11. *Be it further enacted*, That if any stockholder shall fail to pay the sum required of him by the board of directors, it shall be lawful for the board of directors to sell at public auction, and convey to the purchaser the share, or shares of such delinquent stockholder, first giving twenty days public notice of the time and place of such sale, and after retaining the sum due and all charges, to pay the surplus to the former owner, and if said sale shall not produce the amount required and the charges, then the board of directors may recover the balance from the original owner, his assignee or legal representative, or either of them, by suit in any court of record having jurisdiction thereof, or by warrant before any Justice of the Peace of the county where he or she may reside, and any purchaser of said stock under such sale shall be subject to the same rules and regulations as the original proprietor.

SEC. 12. *Be it further enacted*, That if the capital stock of the company hereby incorporated shall be found insufficient for the purposes of this act, it shall and may be lawful for the president and directors, or a majority of them, from time to time to increase the capital stock to an amount not exceeding one hundred thousand dollars, by the addition of as many shares as they may deem necessary, first giving the individual stockholders for the time being, or their legal representatives, the option of taking such additional shares in proportion to the amount of stock respectively held by them, and opening books in Yanceyville, and such other places as the president and directors may think proper, for any balance of the capital stock created, which may not be taken by the stockholders for the time being, or in their behalf, and the subscribers for such additional shares of the capital stock in the said company, are hereby declared to be thenceforward incorporated into the said company, with all the privileges and advantages, and subject to all the liabilities of the original stockholders.

SEC. 13. *Be it further enacted*, That the board of directors, their officers or agents, may agree with the owners of any land, over which the said road or any of its branches is intended to pass, for the purchase and transfer thereof, and in case of disagreement, or if the owner shall be *feme covert*, under age, *non compos mentis*, or out of the State, on application to two justices of the peace of the county where the lands lie, the justices shall issue their warrant to the sheriff of said county to summon eighteen freeholders to meet on the land to be valued, on the day expressed in said warrant, not less than ten nor more than twenty days thereafter, and the sheriff, on the receipt of the warrant, shall summon the freeholders accord-

Increase of
capital.

Lands for loca-
tion of road —
how and how ob-
tained.

ingly, and when met shall draw twelve of them, who, after being duly sworn, will impartially value the land in question, and ascertain the damages the owner thereof may sustain, and the inquisition so taken shall be signed by the jury, and countersigned by the sheriff, and returned to the clerk of the county court to be recorded, and in all cases the jury is directed to describe the land valued, and the company shall pay the sum assessed to the owner or owners of said land, or to their legal representatives, and if neither can be found in this State, or if they refuse to receive the money, then to the clerk of the county court, and on payment thereof the said corporation shall be seized in fee of the land as fully as if conveyed by the owner: *Provided*, That either party, dissatisfied with such valuation, may have an appeal to the county or superior court in the manner now provided for appeals from judgments of justices of the peace; and provided further, that it shall not be lawful for the said president and directors, their officers or agents, to invade the dwelling-house, kitchen, yard, garden, or burial ground of any person, or to cut down or destroy any ornamental trees without the consent of the owner thereof.

Compensation
of Sheriff

SEC. 14. *Be it further enacted*, That whenever the sheriff shall summon a jury to value the land of any person to be condemned for the use of the said corporation, and to assess the damages sustained by him, it shall be the duty of the sheriff to give at least five days notice in writing to the parties interested, of the time and place of the meeting of the jurors, and for each notice the sheriff shall be allowed a fee of seventy-five cents, and a further fee of thirty cents for summoning each juror, to be charged in the bill of costs, and paid by said corporation.

SEC. 15. *Be it further enacted*, That all the costs Costs. incidental to the condemnation of the land, and the assessment of damages as aforesaid, shall be paid by the president and directors of said company ; and that the justices of the peace who may issue the warrant to the sheriff, or any other two justices of the county in which the lands are situated, after the inquisition has been signed by the jury, and countersigned by the sheriff, shall have power to render judgment against said corporation for the assessment of damages as aforesaid, and all costs, and issue execution accordingly.

SEC. 16. *Be it further enacted*, That the said board of directors, or their agents, may agree with the proprietor or proprietors for any quantity of land they may deem necessary for their purpose, at or near each station or place intended for the collection of tolls, for the purpose of erecting the necessary buildings, gates, &c., intended for the purposes of the company, and in case of disagreement, or of any other disability, the same proceedings may be had and the same conveyance shall follow as are prescribed in the preceding section : *Provided*, That, in case of disagreement, not more than two acres of land shall be condemned to the use of the company at any one station. Lands for the erection of buildings--how obtained.

SEC. 17. *Be it further enacted*, That it shall be Toll. lawful for the said board of directors, as soon as five miles in extent of said road are completed, to demand and receive at convenient toll-gates, to be by them erected, a reasonable toll from all persons using said plank road, or any of its branches, which toll shall be so regulated that the profits shall not exceed twenty-five per cent. in any one year.

Width of road.

SEC. 18. *Be it further enacted*, That the said road hereby authorized to be made shall not be less nor more than sixty feet wide, and that if any person or persons shall refuse to pay the toll demanded of them at the time of offering to pass the place or places designated for the collection of tolls, the toll-gatherers respectively may refuse a passage to the person or persons refusing to pay, and if any person or persons shall forcibly or fraudulently pass any gate thereon without having paid the legal toll, and any person or persons who, to avoid paying the legal toll, shall, with his team, carriage or horse, use said road, or any of its branches between the places designated for the collection of tolls, without paying for the same, such person or persons, for every such offence, shall be liable to the company in the sum of five dollars, to be recovered by warrant before any justice of the peace of the county wherein such toll-gate or place for the collection of toll may be situated.

Account of proceedings.

SEC. 19. *Be it further enacted*, That distinct accounts of the proceedings and disbursements of the board of directors shall be made by them to the annual meetings of the stockholders.

Injuries to road.

SEC. 20. *Be it further enacted*, That if any person or persons shall wilfully or maliciously injure or in any manner damage or obstruct, or shall wilfully or maliciously cause or advise any other person or persons to injure or obstruct the said plank road, toll-gates or toll-houses belonging to the said company, such person or persons so offending shall be liable to indictment therefor, and, on conviction, shall be fined and imprisoned by the court before which conviction shall take place.

Penalty therefor.

SEC. 21. *Be it further enacted,* That whenever in the construction of said plank road, or any of its branches, it may become necessary to cross or intersect any established road or way, it shall be the duty of the company so to construct the same across such roads or ways as not to impede the passage or transportation of persons or property along the same; and if in the construction of the said plank road, or any branches of the same, or of any toll-gate or toll-house, it may become necessary or expedient to use or change any established road or way, it may be lawful for the board of directors to change the said road or roads at points where they may deem the same expedient or necessary, and that, previous to making such change, the said company shall make and prepare a road equally good with the portion of road proposed to be changed; but nothing herein contained shall be so construed as to make it binding on the company to keep in repair that portion of any road herein authorized to be changed, and for making any such change the company shall have power to enter upon and condemn any land necessary for their use, as heretofore provided in case of entering upon lands for the plank road.

Intersection
with other
roads—pro-
ceeding in
such case.

SEC. 22. *Be it further enacted,* That this act shall be in force from the date of its ratification, shall be regarded as a public act and shall continue in force for the period of thirty years.

Duration of
charter.

[Read three times and ratified in General Assembly,
this 25th day of December, A. D., 1852.]

CHAPTER XCVI.

AN ACT TO INCORPORATE THE CHAPEL HILL AND DURHAMVILLE PLANK ROAD COMPANY.

Books to be opened.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful to open books at Chapel Hill under the direction of J. N. Patterson, J. W. Carr, Charles Maxam, Benj'n D. Rogers, J. S. Lucas, J. Hargrave: and at Durhamville under the direction of James T. Leathers, B. L. Durham, William McCewn, Paul Cameron, M. A. Augier, for the purpose of receiving subscriptions to an amount not exceeding twenty thousand dollars, in shares of fifty dollars each, for the purpose of making a plank road from Chapel Hill to Durhamville, by the most practicable route to be determined by said company.

And kept open from time to time.

SEC. 2. *Be it further enacted,* That the said commissioners shall open the books from time to time as they may think proper, until the whole number of shares be subscribed.

Corporate title.

SEC. 3. *Be it further enacted,* That when five thousand dollars shall be subscribed for, the subscribers shall be incorporated by the name of "The Chapel Hill and Durhamville Plank Road Company."

Payment of subscriptions.

SEC. 4. *Be it further enacted,* That upon any subscription, there shall be paid at the time of subscribing to the said commissioners or their agents, the sum of one dollar on every share subscribed, and the residue thereof shall be paid in such instalments and at such

times as may be required by the president and directors of said company.

SEC. 5. *Be it further enacted,* That said commissioners shall further pay over to the president and directors all money received by them. Moneys to be paid to the President.

SEC. 6. *Be it further enacted,* That when five thousand dollars shall have been subscribed, public notice of that event shall be given by the said commissioners at Chapel Hill, who shall have power at the same time to call a general meeting of the stockholders, at such convenient place and time as they shall name in said notice. General meeting.

SEC. 7. *Be it further enacted,* That to make any such meeting, persons entitled to a majority of all the votes which could be given upon all the shares subscribed, shall be present, either in person or by proxy, and such a number not attending on that day, those who do attend may adjourn from time to time until a meeting shall be formed. How constituted.

SEC. 8. *Be it further enacted,* That the subscribers at their general meeting, and the proprietors of stock at every annual meeting thereafter, shall elect a president and directors who shall continue in office until the next annual meeting after their election, and until their successors shall be elected. President and Directors.

SEC. 9. *Be it further enacted,* That the president with any two or more of the directors, or in the event of the sickness and absence or disability of the president, any three or more of the directors may appoint one of their own body president *pro tem*, shall constitute a board for the transaction of business. In cases of va- Vacancies.

cancy in the office of president or any director, such vacancy may be supplied by the appointment of the board until the next annual meeting.

Rights and
powers of Di-
rectors.

SEC. 10. *Be it further enacted,* That the president and directors of said company, shall be invested with all the rights and powers necessary for the construction and maintaining of a plank road, to be located as aforesaid, and may cause to be made all works necessary to the proper completion of the said road.

Contracts.

SEC. 11. *Be it further enacted,* That the said president and directors shall have power to make contracts with any persons on behalf of the company, for making the said plank road, and performing all other things respecting the same, necessary and proper, and to require from the subscribers such advances of money on their shares as may be needed; to call on any emergency a general meeting of the stockholders, giving two weeks notice thereof, in some newspaper printed in the county of Orange; to appoint a treasurer from among the stockholders, but not of their own body, who shall give bond and security for the faithful discharge of his duty; to appoint a clerk and such agents as may be necessary, and to transact all the business of the company during the interval between the general meetings of the stockholders.

Treasurer.

Proceedings in
case of failure
of Stockhold-
er to pay.

SEC. 12. *Be it further enacted,* That if any stockholder shall fail to pay the sum required of him by the president and directors within one month after the same shall have been advertised in some newspaper printed in the county of Orange, it shall be lawful for the president and directors to sell at public auction, and to convey to the purchaser the shares of such stockholder, giving one month's previous notice of the

time and place of sale in manner aforesaid, and after retaining the sum due, and all the charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner, and if the said sale shall not produce the sum required with all incidental charges attending the sale, then the president and directors may recover the balance from the proprietor by suit or warrant.

SEC. 13. *Be it further enacted*, That the president and directors may agree with the owner of any land over which the said road is intended to pass for the purchase thereof, and in case of disagreement, or if the owner shall be *feme covert*, under age, or *non compos*, or out of the State, on application to any two justices of the peace of the county Orange, the justices shall issue their warrant to the sheriff of said county to summon eighteen freeholders, to meet on the land to be valued, on a day expressed in said warrant, not less than ten nor more than twenty days thereafter, and the sheriff on the receipt of the warrant, shall summon the freeholders accordingly, and when met, shall draw twelve of them, who after being duly sworn, shall impartially value the land in question, and consider the damages the owner thereof may sustain, and the inquisition so taken shall be signed by the sheriff and the jurors, and returned to the clerk of the county court, to be recorded; and in all cases the jury is hereby directed to describe the land valued, and the president and directors shall pay the sum to the owner of the land valued, and if he cannot be found in this State, or should refuse to receive the money, then to the clerk of the county court, and on payment thereof, the said land shall vest in the said company, so long as the same shall be used for the purposes of said plank road; *Provided*, That the dwelling house, kitchen, yard or Lands for location of road—how obtained.
Proviso.

garden, or burial ground of no person shall be invaded, or any part thereof, appropriated to the use of said corporation without the consent of the owner: *Provided, further*, That an appeal may be taken from the valuation by the jury hereinbefore named, to be prosecuted in the same courts and under the same rules that now regulate appeals from justices of the peace.

Land for toll-
houses—how
obtained.

SEC. 14. *Be it further enacted*, That the president and directors may agree with the proprietor for any quantity of land, not exceeding two acres, at or near each place intended for collecting tolls, and in case of disagreement, or of any disabilities aforesaid, or the owner or owners being out of the State, the same proceedings may be had as are described in the preceding sections.

Toll.

SEC. 15. *Be it further enacted*, That it shall be lawful for the said president and directors to demand and receive at convenient toll gates a reasonable toll from all persons using said Plank Road, which toll shall be so regulated that the profits shall not exceed twenty per cent on the capital stock of said company in any one year.

Width of road.

SEC. 16. *Be it further enacted*, That the said road shall not be less than ten nor more than sixty feet wide; and that so soon as two miles in extent shall have been constructed, it shall be lawful for the president and directors to erect a toll gate, and if any person shall refuse to pay the toll at the time of offering to pass the place designated for their collection, and previous to passing the same, the toll gatherers respectively may refuse a passage to the person so refusing to pay, and if any person shall pass or drive through any

wheeled carriage or animal liable to toll without paying the same, he shall be liable to pay a fine of five dollars, which fine may be recovered by warrant before any justice of the peace of the county of Orange.

SEC. 17. *Be it further enacted*, That if any person shall wilfully or maliciously injure, or in any manner hurt, damage or obstruct, or shall wilfully or maliciously cause or aid or assist or counsel and advise any other person to injure, hurt, damage or obstruct the said plank road, toll gates or toll houses, such person so offending shall be liable to be indicted therefor as a misdemeanor.

Injury to road,
&c., made
punishable.

SEC. 18. *Be it further enacted*, That the president and directors shall render accounts of their proceedings and disbursements of money to the annual meetings of the stockholders.

Account of
proceedings.

SEC. 19. *Be it further enacted*, That whenever said road shall cross any established road or way, it shall be the duty of the president and directors so to construct the said plank road as not to impede the passage of persons or property along the same ; and if it shall be necessary or expedient to use any portion of any established public road or way, it may be lawful for the president and directors to change the said road at points where they may deem it necessary so to do ; and that for entering upon or taking any land that may be necessary therefor, they shall be authorized to proceed under the provisions of this act, as in the case of land necessary for the plank road : *Provided further*, That previous to the making of any such change, the said company shall make and prepare a road equally good with the portion of the road for which it is sub-

Proceedings in
case of inter-
section with
other roads.

stituted ; but it shall not be incumbent on the company to keep in repair the portion of any road which they may have changed as aforesaid.

[Read three times and ratified in General Assembly, this 17th day of December, A. D., 1852.]

CHAPTER XCVII.

AN ACT TO INCORPORATE THE CHARLOTTE, NORTH CAROLINA, AND CHERAW, SOUTH CAROLINA, PLANK ROAD COMPANY.

Books to be
opened.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina. and it is hereby enacted by the authority of the same,* That it shall be lawful to open books of subscription in the town of Charlotte, under the direction of B. Oats, H. B. Williams, L. Parks, Leroy Springs and C. J. Fox; in the town of Wadesboro', under the direction of Walter R. Leak, Absolom Myers, Hampton B. Hammond, George W. Little, Dr. Walter G. Jones, Thomas S. Ashe, William P. Kendall, Eben Nelms and Perdrie Richardson, or a majority of them, and at such other places in the counties of Mecklenburg and Anson, and under the direction of such other persons as the commissioners hereinbefore named to superintend the receiving of subscriptions in the towns of Charlotte and Wadesboro' shall direct, for the purpose of receiving subscriptions to an amount, not exceeding one hundred

and fifty thousand dollars, in shares of fifty dollars each, for the purpose of constructing a plank road from the town of Charlotte, North Carolina, to the South Carolina line, in the direction of the town of Cheraw, South Carolina, the precise route and points of said road to be determined by the said corporation after the same shall have been formed.

Limitation of capital.

SEC. 2. *Be it further enacted* That the times and places of receiving such subscriptions shall be advertised in the North Carolina Whig, a paper published in the town of Charlotte, or in some other newspaper published in the State, and the books for receiving the same shall not be closed within ten days after the opening, and said commissioners shall have power to open books from time to time as they think proper until the whole number of shares be subscribed.

Advertisement.

Books to be kept open from time to time.

SEC. 3. *Be it further enacted*, That when the sum of ten thousand dollars shall be subscribed for in manner aforesaid, the subscribers, their executors, administrators or assigns, shall be and are hereby declared to be incorporated into a company by the name and style of "The Charlotte and Cheraw Plank Road Company," and by that name shall be capable in law of purchasing, holding, selling, leasing and conveying estates, real, personal and mixed, so far as may be necessary for the purposes of said company, and shall have perpetual succession and by said corporate name may sue and be sued, and may have a common seal, which they shall have power to alter or renew at pleasure, and shall have and enjoy and may exercise all the powers, rights and privileges which other corporate bodies may lawfully do for the purposes mentioned in this act, and may make all such by-laws, rules and regulations not inconsistent with the laws of this State

Corporate title.

or of the United States as shall be necessary for the well ordering and conducting the affairs of said company.

Payment of
subscription.

SEC. 4. *Be it further enacted*, That upon any subscription of stock as aforesaid there shall be paid at the time of subscribing to the said commissioners, or their agents, appointed to receive such subscriptions, the sum of one dollar on every share subscribed, and the residue thereof shall be paid or secured in such manner and at such time or times as may be requested by the board of directors of said company.

Moneys to be
paid over to
Directors.

SEC. 5. *Be it further enacted*, That the said commissioners, or their agents, shall forthwith, after the first election of the board of directors of the company, pay over to the said directors all moneys received by them, and, on failure thereof, the said directors may recover the amount due from them by legal process in the court of pleas and quarter sessions, or in the superior court of law in any county wherein such commissioner or commissioners may reside, or by warrant before any justice of the peace for said county.

General meet-
ing.

SEC. 6. *Be it further enacted*, That when ten thousand dollars shall have been subscribed, public notice of that event shall be given by the said commissioners at Charlotte, who shall at the same time call a general meeting of the stockholders at such convenient place and time as they shall name in said notice.

How constitu-
ted.

SEC. 7. *Be it further enacted*, That to constitute any such meeting, a number of persons entitled to a majority of all the votes which could be given

upon all the shares subscribed, shall be present, either in person or by proxy, and if a sufficient number to constitute a meeting do not attend on that day, those who attend shall have the power to adjourn from time to time until a meeting shall [be] formed.

SEC. 8. *Be it further enacted,* That the subscribers at the general meeting before directed, and the proprietors of stock at every annual meeting thereafter, shall elect nine directors, and the directors, when appointed, shall choose one of their number president, who shall continue in office, unless sooner removed, until the next annual meeting after their election, and until their successors shall be elected, but the said directors, or any of them, may at any time be removed, and the vacancy thereby occasioned be filled by a majority of votes given at any general meeting. The president, with any three or more directors, or in the event of sickness, absence, or disability of the president, any four or more of the directors may appoint one of their number president *pro tem.*, who shall constitute a board for the transaction of business. In cases of vacancy of [in] the board of directors, happening from death, resignation, or otherwise, such vacancy may be supplied by the appointment of the board until the next annual meeting.

President and
Directors.

Vacancies.

SEC. 9. *Be it further enacted,* That the board of directors of said company shall be and are hereby invested with all the rights and powers necessary for the construction, repairs, and maintainance of a plank road to be located as aforesaid, with as many branches diverging from the main stem as they or a majority of them may deem necessary, and may cause to be made; and also to make and construct all works whatsoever, which may be necessary to the completion of said road and all its branches.

Rights and
powers of Di-
rectors.

Contracts.

SEC. 10. *Be it further enacted,* That the said board of directors shall have power to make contracts with any person or persons on behalf of the company for making said plank road, together with any branches of the same, and perform all other things respecting the same which they shall judge necessary and proper, and to require from the subscribers, from time to time, such advances of money on their respective shares as the wants of the company may demand, until the whole of their subscription shall be advanced, to call on any emergency a general meeting of the stockholders, giving one month's notice thereof, to appoint such officers as they may deem necessary to transact the business of the company, taking from them bond and security for the faithful discharge of their several duties, and duly accounting for all moneys coming into their hands; to appoint such superintendents, managers, and toll-gatherers as may be necessary generally to transact all the business of the company between the general meetings of the stockholders.

Officers.

Proceedings in case of failure of a Stockholder to pay.

SEC. 11. *Be it further enacted,* That if any stockholder shall fail to pay the sum required of him by the board of directors, or by a majority of them, within one month after the same shall have been advertised in the North Carolina Whig, or some other paper published in the State, it shall and may be lawful for said board of directors, or a majority of them, to sell at public auction and convey to the purchaser the share or shares of such stockholders so failing or refusing, giving one month's previous notice of the time and place of sale in manner aforesaid, and after retaining the sum due and all the charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner or to his legal representatives; and if the said sale shall not produce the sum required to

be advanced, with all the incidental charges attending the sale, the said board of directors may recover the balance of the original proprietor or his assignee, or the executor or administrator of either of them, by suit in any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county of which he is a resident, and any purchaser of the stock of the company under a sale by order of the board of directors, shall be subject to the same rules and regulations as the original proprietor.

SEC. 12. *Be it further enacted*, That the said board of directors, their officers or agents, may agree with the owners of any land over which said road or any of its branches is intended to pass for the purchase thereof; and in case of disagreement, or if the owner shall be *feme covert*, under age, *non compos* or out of the State, on application to any two Justices of the Peace of the county where the lands lie, the justices shall issue their warrant to the sheriff of said county to summon eighteen freeholders to meet on the land to be valued, on a day expressed in the said warrant, not less than ten nor more than twenty days thereafter, and the sheriff on the receipt of the warrant shall summon the freeholders accordingly, and when met, shall draw twelve of them, who after being duly sworn, will impartially value the land in question, and consider the damages the owner thereof may sustain, and the inquiry so taken shall be signed by the jury and countersigned by the sheriff, and returned to the clerk of the county court, to be recorded, and in all cases the jury is hereby directed to describe the land valued, and if either party shall be dissatisfied with said valuation they may appeal to the county or superior court in the manner now provided for appeals from judgments of Justices of the Peace, and the said directors shall pay

Lands for the location of road—how to be obtained.

the sum to the owner of the land valued or his legal representative, and if neither can be found in the State or if they refuse to receive the money, then to the clerk of the county court, and on judgment thereof, the said corporation shall be seized in fee of the land as fully and as absolutely as if it had been conveyed to them by the owner: *Provided, nevertheless,* That the dwelling house, kitchen, yard, garden or burial ground of no person shall be invaded, or any part thereof appropriated to the use of said corporation without the consent of the owner.

Provided.

Notice to land owners.

SEC. 13. *Be it further enacted,* That it shall be the duty of the sheriff to give at least five days notice in writing, to the parties interested, of the time and place of the meeting of the jurors to assess damages as aforesaid, and that for such notice he shall be allowed a fee of seventy-five cents.

Costs.

SEC. 14. *Be it further enacted,* That all the costs incident to the condemnation of the land, and the assessment of damages, shall be paid by the corporation, and the two Justices who may issue the warrant to the sheriff, or any other two Justices of the county after the inquisition is signed by the jury and countersigned by the sheriff, shall have power to render judgment and issue execution for said costs.

Lands for toll-houses, &c.—how obtained.

SEC. 15. *Be it further enacted,* That said board of directors or their agents, may agree with the proprietor or proprietors for any quantity of land they may deem necessary for their purposes, at or near each place or station intended for the collection of tolls, for the purpose of erecting the necessary buildings, gates, &c., and in case of disagreement or of any disability as aforesaid, or the owner or owners being out of the

State, the same proceedings may be had and the same conveyance shall follow as are described in the 12th section, *Provided*, That in no case of disagreement, not more than two acres of land shall be condemned to the use of said company at any one station.

SEC. 16. *Be it further enacted*, That it shall Toll.
and may be lawful for the said board of directors to demand and receive at some convenient toll gates, to be by them erected, a reasonable toll from all persons using said plank road, or any of its branches, which toll so to be collected, shall be so regulated that the profits shall not exceed twenty per cent. on the capital of said company in one year.

SEC. 17. *Be it further enacted*, That the road Width of road.
hereby authorized shall not be less than eight nor more than sixty-six feet wide, and that as soon as five miles in extent shall have been constructed, it shall and may be lawful for the said board of directors to demand and collect such toll from persons using said road, as may be by them determined in accordance with the rates imposed by the section of this act, and in like proportions for a greater extent of road ; and if any person or persons shall refuse to pay the toll at the time of offering to pass the place or places designated for the collection of tolls, and previous to passing the same, the toll gatherers respectively may refuse a passage to the person or persons refusing to pay, and if any person or persons shall pass or drive through, or pass or drive around said place any wheel carriage or animal liable to toll, without paying the same, he or they shall be liable to pay a fine of five dollars, which fine may be recovered by warrant before any Justice of the Peace of the county wherein such toll gate or point of collection is situated ; and if

Refusal to pay
punishable.

any person or persons shall drive on or use any part of said road between the points designated for the collection of tolls without paying the amount for which he or they may be liable, it shall be held that he or they are fraudulently using the same, and he, she or they, shall be liable to pay a fine of five dollars, which may be recovered by warrant as herein before prescribed.

Injury to road
punishable.

SEC. 18. *Be it further enacted*, That if any person or persons shall unlawfully or maliciously, or in any manner hurt, damage or obstruct, or shall wilfully or maliciously cause, aid or assist, counsel or advise any other person or persons to injure, hurt, damage or obstruct the said plank road, toll-gates or toll-houses, or any other property or effects of said company, such person or persons so offending shall be liable to be indicted therefor, and, on conviction, shall be imprisoned or fined at the discretion of the court before which said conviction shall take place.

Account of
proceedings.

SEC. 19. *Be it further enacted*, That distinct accounts of the proceedings and disbursements of the board shall be made by them to the annual meeting of the stockholders: *Provided*, That if a number of stockholders holding one-fourth in amount of the capital stock of said company shall ask of the board in writing a call of a general meeting of the stockholders, such meeting shall be called, and to such meeting the board shall make a report similar in all respects to the one required to be made at annual meetings.

Proceedings in
case of inter-
section with
other roads.

SEC. 20. *Be it further enacted*, That whenever in the construction of said road it may be necessary to cross or intersect any established road or way, it shall be the duty of the board of directors so to construct

the said plank road across such established roads or ways as not to impede the passage of or transportation of persons or property along the same, and, if in the construction of the said plank road, or any of its branches, or of any toll-gate or toll-house, it may become necessary or expedient to use or change any portion of any established public road or way, [it may] be lawful for said board of directors to change the said roads at points where they may deem it necessary or expedient to do so, and that for entering upon or taking any land necessary therefor they shall be and are hereby authorized to proceed under the provisions of this act, as in case of land necessary for the plank road: *Provided further*, That previous to making any such change, the said company shall make and prepare a road equally good with the road proposed to be established; but nothing herein contained shall be so construed as to make it incumbent on said company to keep in repair the portion of any road which they may have changed as aforesaid.

SEC. 21. *Be it further enacted*, That this act shall be in force from and after the ratification thereof, and shall be regarded as a public act, and be continued in force for thirty years. Duration
charter.

[Read three times and ratified in General Assembly,
this 22d day of December, A. D., 1852.]

CHAPTER XCVIII.

AN ACT TO AMEND AN ACT PASSED AT THE SESSION OF THE GENERAL ASSEMBLY OF 1850-51, ENTITLED "AN ACT TO INCORPORATE THE ANSON PLANK ROAD COMPANY."

Capital.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the first section of the above recited act be amended so as to give to said company the right of extending their road to the town of Salisbury, in the county of Rowan, and that the capital stock of said company shall be one hundred and fifty thousand dollars, and books of subscription for receiving the additional amount of stock hereby authorized, shall be opened under the superintendence of such persons and at such times and places as the directors of said company shall appoint.

Amendment of 5th section.

SEC. 2. *Be it further enacted,* That the sixteenth section of the above recited act be amended, so as to allow said company to declare dividends of twenty-five per cent. per annum upon the capital stock.

Cheraw and Anson Plank Road Company.

SEC. 3. *Be it further enacted,* That the stockholders of said company shall have power, at any annual meeting, to contract with the Cheraw and Anson Plank Road Company of South Carolina, so as to merge the pecuniary interests of said two companies together.

SEC. 4. *Be it further enacted,* That this act shall be in force and take effect from and after its ratification.

[Read three times and ratified in General Assembly, this 17th day of December, A. D., 1852.]

CHAPTER XCIX.

AN ACT TO INCORPORATE THE CONCORD AND ANSON PLANK ROAD COMPANY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful to open books of subscription in the town of Concord, in the county of Cabarrus, under the direction of Daniel Coleman, R. W. Allison, Robert W. Ford, Kiah. P. Harris, A. J. Yorke, Jacob Wincoff, Caleb Phifer and James Williford, or a majority of them, and at such other places and under the direction of such other persons as the commissioners hereinbefore named to receive subscriptions in the town of Concord shall direct, for the purpose of receiving subscriptions to an amount not exceeding eighty thousand dollars, in shares of fifty dollars each, for the purpose of constructing a plank road from Crump's Mill, on Rocky river, in Stanly county, to intersect at some convenient place with the Anson Plank Road to Concord, by the most practicable route.

Books to be opened.

SEC. 2. *Be it further enacted,* That the times and places for receiving subscriptions shall be advertised in one or more newspapers published in the towns of Charlotte, Salisbury or Wadesboro', and the books for receiving the same shall not be closed within ten days after the opening, and the commissioners shall have power to open books from time to time as they may think proper until the whole number of shares be taken.

And kept open from time to time.

Corporate title.

SEC. 3. *Be it further enacted*, That when the sum of fifteen thousand dollars shall be subscribed for in manner aforesaid, the subscribers, their executors, administrators or assigns, shall be and they are hereby declared to be incorporated into a company by the name and style of "The Concord and Anson Plank Road Company," and by that name shall be capable in law of purchasing, holding, selling, leasing and conveying estates, real, personal and mixed, so far as may be necessary for the purpose of said company, either in constructing or managing the affairs of said company, and shall have succession and by said corporate name may sue and be sued, and may have a common seal, which they shall have power to alter or renew at pleasure, and shall have and enjoy and may exercise all the powers, rights and privileges which other corporate bodies may lawfully do for the purposes mentioned in this act, and may make all such by-laws, rules and regulations, not inconsistent with the laws of this State or of the United States, as shall be necessary for the well ordering and conducting the affairs of said company.

Rights and Privileges.

Payments.

SEC. 4. *Be it further enacted*, That upon any subscription of stock as aforesaid there shall be paid, at the time of subscribing, to the said commissioners, or their agents appointed to receive such subscriptions, the sum of one dollar on every share subscribed, and the residue thereof shall be paid or secured in such manner and at such time or times as may be required by the board of directors of said company.

Moneys to be paid over to Directors.

SEC. 5. *Be it further enacted*, That the said commissioners, or their agents, shall forthwith, after the first election of the board of directors of the company, pay over to the said directors all moneys received by

them, and, on failure thereof, the said directors may recover the amount due from them by legal process in the court of pleas and quarter sessions, or in the superior court of law in any county wherein such commissioner or commissioners may reside, or by warrant before any justice of the peace of said county.

SEC. 6. *Be it further enacted,* That when fifteen thousand dollars shall have been subscribed, public notice of that event shall be given by the said commissioners at Concord, who shall at the same time call a general meeting of the stockholders at such convenient place and time as they shall name in said notice. General meeting.

SEC. 7. *Be it further enacted,* That to constitute any such meeting, a number of persons entitled to a majority of all the votes which could be given upon all the shares subscribed shall be present, either in person or by proxy; and if a sufficient number to constitute a meeting do not attend on that day, those who attend shall have the power to adjourn from time to time, until a meeting shall be formed. How constituted.

SEC. 8. *Be it further enacted,* That the subscribers at the general meeting before directed, and the proprietors of stock at every annual meeting thereafter, shall elect nine directors, and the directors when appointed, shall choose one of their number president, who shall continue in office unless sooner removed, until the next annual meeting after their election, and until their successors shall be elected; but the said directors, or any of them, may at any time be removed, and the vacancy thereby occasioned, be filled by a majority of votes given at any general meeting; the president with any three or more directors, or in the event of sickness, absence or disability of the presi- President and Directors.

dent, any four or more of the directors may appoint one of their number president *pro tem.* who shall constitute a board for the transaction of business: in cases of vacancy of the board of directors, happening from death, resignation or otherwise, such vacancy may be supplied by the appointment of the board until the next annual meeting.

Vacancies.

Rights, &c.

SEC. 9. *Be it further enacted,* That the board of directors of said company shall be, and are hereby invested with all the rights and powers necessary for the constructing, repairs, and maintaining of a plank road to be located as foresaid, with as many branches diverging from the main stem, as they or a majority of them may deem necessary, and may cause to be made, and also to make and construct all works whatsoever which may be necessary to the completion of said road and all its branches.

Contracts.

SEC. 10. *Be it further enacted,* That the said board of directors shall have power to make contracts with any person or persons on behalf of the company for making said plank road, together with any branches of the same, and perform all other things respecting the same, which they shall judge necessary and proper, and to require from the subscribers from time to time, such advances of money on their respective shares, as the wants of the company may demand, until the whole of their subscription shall be advanced; to call, on any emergency a general meeting of the stockholders, giving one month's notice thereof; to appoint such officers as they may deem necessary to transact the business of the company, taking from them bond and security for the faithful discharge of their several duties, and duly accounting for all moneys coming into their hands; to appoint such superin-

Officers.

tendents, managers and toll gatherers as may be necessary, and generally to transact all the business of the company between the general meetings of the stockholders.

SEC. 11. *Be it further enacted*, That if any stockholder shall fail to pay the sum required of him by the board of directors or by a majority of them, within one month after the same shall have been advertised in the North Carolina Argus, or some other paper published in the State, it shall and may be lawful for said board of directors or a majority of them, to sell at public auction, and to convey to the purchaser the share or shares of such stockholders so failing or refusing, giving one month's previous notice of the time and place of sale in manner aforesaid; and after retaining the sum due and all the charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner or to his legal representatives; and if the said sale shall not produce the sum required to be advanced with all the incidental charges attending the sale, the said board of directors may recover the balance of the original proprietor or his assignee, or the executor or administrator of either of them by suit in any court of record having any jurisdiction thereof, or by warrant before any justice of the peace of the county of which he is a resident, and any purchaser of the stock of the company under a sale by order of the board of directors shall be subject to the same rules and regulations as the original proprietors.

Proceedings in case of failure of Stockholders to pay.

SEC. 12. *Be it further enacted*, That the said board of directors, their officers or agents, may agree with the owners of any land over which said road or any of its branches is intended to pass, for the purchase thereof; and in case of disagreement, or if the

Lands for the location of road—how to be obtained.

owner shall be *feme covert*, under age, *non compos*, or out of the State, on application to any two justices of the peace of the county where the lands lie, the justices shall issue their warrant to the sheriff of said county to summon eighteen freeholders to meet on the land to be valued, on a day expressed in the said warrant, not less than ten nor more than twenty days thereafter, and the sheriff, on the receipt of the warrant, shall summon the freeholders accordingly, and when met shall draw twelve of them, who, after being duly sworn, will impartially value the land in question, and consider the damages the owner thereof may sustain, and the inquisition so taken shall be signed by the jury and countersigned by the sheriff, and returned to the clerk of the county court to be recorded; and in all cases the jury is hereby directed to describe the land valued, and such valuation shall be conclusive, and the said directors shall pay the same to the owner of the land valued, or his legal representatives, and if neither can be found in this State, or if they refuse to receive the money, then to the clerk of the county court, and on payment thereof, the said corporation shall be seized in fee of the land as fully and absolutely as if it had been conveyed to them by the owner: *Provided, nevertheless*, That the dwelling-house, kitchen, yard, or garden of no person shall be invaded, or any part thereof appropriated to the use of said corporation, without the consent of the owner: *Provided*, That from the assessment of damages made as herein provided, either party shall have an appeal to the county or superior court, to be prosecuted and tried as appeals from judgments of justices of the peace to the county or superior court.

Proviso.

Notice to parties interested.

SEC. 13. *Be it further enacted*, That it shall be duty of the sheriff to give at least five days notice in

writing to the parties interested, of the time and place of the meeting, of the jurors to assess damages as aforesaid, and that for such notice he shall be allowed a fee of seventy-five cents.

SEC. 14. *Be it further enacted*, That all the Costs. costs incident to the condemnation of the land and the assessment of damages, shall be paid by the corporation; and the two justices who may issue the warrant to the sheriff, or any other two justices of the county, after the inquisition is signed by the jury and countersigned by the sheriff, shall have power to render judgment and issue execution for said case, [costs.]

SEC. 15. *Be it further enacted*, That said board of directors or their agents may agree with the proprietors for any quantity of land they may deem necessary for their purposes, at or near each place or station intended for the collection of tolls, for the purpose of erecting the necessary buildings, gates, &c., and in case of disagreement, or of any disability as aforesaid, or the owner or owners being out of the State, the same proceedings may be had and the same conveyances shall follow as are described in the 12th section: *Provided*, That, in case of disagreement, not more than two acres of land shall be condemned to the use of said company at any one station. Lands for toll-houses, &c.—how to be obtained.

SEC. 16. *Be it further enacted*, That it shall and Toll. may be lawful for the said board of directors to demand and receive, at some convenient toll-gates to be by them erected, a reasonable toll from all persons using said plank road, or any of its branches, which toll so to be collected shall be so regulated that the profits shall not exceed twenty-five per cent. on the capital of said company in any one year.

Width of road.

SEC. 17. *Be it further enacted*, That the road hereby authorized shall not be less than eight nor more than sixty feet wide, and that as soon as five miles in extent shall have been constructed, it shall and may be lawful for the said board of directors to demand and collect such toll from persons using such road as may by them be determined in accordance with the rates imposed by the — section of this act, and in like proportion for a greater extent of road; and if any person or persons shall refuse to pay the toll at the time of offering to pass the place or places designated for the collection of tolls, and previous to passing the same, the toll-gatherers respectively may refuse a passage to the person or persons refusing to pay; and if any person or persons shall pass or drive through or pass or drive around said place any wheel carriage or animal liable to toll, without paying the same, he or they shall be liable to pay a fine of five dollars, which fine may be recovered by warrant before any justice of the peace of the county wherein such toll-gate or point of collection is situated; and if any person or persons shall drive on or use any part of said road between the points designated for the collection of tolls, without paying the amount for which he or they may be liable, it shall be held that he or they are fraudulently using the same, and he, she, or they shall be liable to pay a fine of five dollars, which may be recovered by warrant as herein before prescribed.

Penalty of refusal to pay.

Damage to road, &c., punishable.

SEC. 18. *Be it further enacted*, That if any person or persons shall wilfully or maliciously, or in any manner hurt, damage or obstruct, or shall wilfully or maliciously cause, aid or assist, counsel or advise any other person or persons to injure, hurt, damage or obstruct the said plank road, toll-gates or toll-houses, or

any other property or effects of said company, such person or persons so offending shall be liable to be indicted therefor, and, on conviction, shall be imprisoned or fined, at the discretion of the court before which said conviction shall take place.

SEC. 19. *Be it further enacted*, That distinct accounts of the proceedings and disbursements of the board shall be made by them to the annual meeting of the stockholders: *Provided*, That if a number of stockholders holding one-fourth in amount of the capital stock of said company shall ask of the board in writing a call of a general meeting of the stockholders, such meeting shall be called, and to such meeting the board shall make a report similar in all respects to the one required to be made at annual meetings.

Account of
proceedings.

SEC. 20. *Be it further enacted*, That whenever in the construction of said road it may become necessary to cross or intersect any established road or way, it shall be the duty of the board of directors so to construct the said plank road across such established roads or ways as not to impede the passage or transportation of persons or property along the same, and if in the construction of said plank road, or any of its branches, or of any toll-gate or toll-house, it becomes necessary or expedient to use or change any portion of any established public road or way, it may be lawful for said board of directors to change the said roads at points where they may deem it necessary or expedient to do so, and that for entering upon or taking any land necessary therefor they shall be and are hereby authorized to proceed under the provision of this act as in case of land necessary for the plank road: *Provided further*, That previous to making any such change the said company shall make and prepare a

Proceedings in
case of inter-
section with
other roads.

road equally good with the road proposed to be substituted; but nothing herein contained shall be so construed as to make it incumbent on said company to keep in repair the portion of any road which they may have changed as aforesaid.

Duration of
charter.

SEC. 21. *Be it further enacted*, That this act shall be in force from and after the ratification thereof, and shall be regarded as a public act and be continued in force for thirty years.

[Read three times and ratified in General Assembly this 29th day of November, A. D., 1852.]

CHAPTER C.

AN ACT TO INCORPORATE THE CHAPEL HILL AND RALEIGH PLANK ROAD COMPANY.

Books to be
opened.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That books may be opened at Chapel Hill, in the county of Orange by J. B. Jones, W. J. Hogan, Edward Mallett and John Hutchins; at Morrisville, in the county of Wake, by Jeremiah Morris, Adolphus Jones, and Giles Allison; at Raleigh, in the county of Wake, by M. A. Bledsoe, Seaton Gales, William Jones and W. L. Pomeroy, and at such other places, and by such other persons as the commissioners at Chapel Hill shall appoint, to receive

subscriptions to an amount not exceeding forty thousand dollars, in shares of fifty dollars each, to construct a plank road from Chapel Hill to Raleigh by a route to be chosen by the company hereinafter incorporated.

SEC. 2. *Be it further enacted*, That said commissioners shall open the books from time to time as they may think proper, until the whole number of shares be subscribed. And kept open from time to time.

SEC. 3. *Be it further enacted*, That when five thousand dollars shall be subscribed for, the subscribers shall be incorporated by the name of the Chapel Hill and Raleigh Plank Road Company. Corporate title.

SEC. 4. *Be it further enacted*, That upon any subscription, there shall be paid at the time of subscribing, the sum of one dollar on every share subscribed; and the residue thereof shall be paid in such instalments, and at such times as may be required by the president and directors of said company. Payment of subscriptions.

SEC. 5. *Be it further enacted*, That the said commissioners shall pay over to the president and directors all moneys received by them. Moneys.

SEC. 6. *Be it further enacted*, That when ten thousand dollars shall have been subscribed, public notice of it shall be given by the said commissioners at Chapel Hill, who shall have power at the same time to call a general meeting of the stockholders at such convenient place and time as they shall name. General meeting.

SEC. 7. *Be it further enacted*, That to make any such meeting, persons entitled to a majority of all the votes that could be given upon all the shares sub- Meeting—how constituted.

scribed, shall be present in person or by proxy; and such a number not attending on that day, those who attend may adjourn from time to time until a meeting shall be formed.

President and
Directors.

SEC. 8. *Be it further enacted*, That the subscribers at their general meeting, and the proprietors of stock, at every annual meeting thereafter, shall elect a president and five directors, who shall hold office until the next annual meeting after their election, and until their successors shall be elected.

Vacancies.

SEC. 9. *Be it further enacted*, The president with any three or more of the directors shall constitute a board to do business; in the event of the sickness and absence or disability of the president, any three or more of the directors may appoint one of their own body president, *pro tem*. In cases of vacancy in the office of president or any director, such vacancy may be supplied by an appointment by the board until the next annual meeting.

Rights and
powers.

SEC. 10. *Be it further enacted*, The president and directors shall be invested with all rights and powers necessary for the making and maintaining a plank road to be located as aforesaid; and may cause to be made all works necessary to the proper construction of said road.

Contracts.

SEC. 11. *Be it further enacted*, The president and directors may make contracts with any person on behalf of the company; on any emergency they may call a general meeting of the stockholders, giving a fortnight's notice thereof in some newspaper convenient—they may appoint a treasurer from among the stockholders, (but not of their own body,) who shall

give bond and security for the faithful discharge of his duty ; also, a clerk and such other agents as may be necessary ; and they may transact all the business of the company during the intervals between the general meeting. Officers.

SEC. 12. *Be it further enacted,* If any stockholder shall fail to pay the sum required of him within one month after the same shall have been advertised in some convenient newspaper, the president and directors may sell at public auction and convey to the purchaser the shares of such stockholder, giving one month's previous notice of the time and place of sale in manner aforesaid, and after retaining the sum due and all charges of the sale out of the proceeds thereof, pay the surplus over to the former owner, and if the said sale shall not produce the sum required, with all incidental charges attending the sale, the president and directors may recover the balance from the proprietor by suit or warrant. Delinquent
Stockholders.

SEC. 13. *Be it further enacted,* The president and directors may agree with the owners of land over which the road is intended to pass for the purchase thereof, and, in case of disagreement, or if the owners shall be *femes covert*s, under age, *non compos* or out of the State, on application to any two justices of the peace for the county within which the land lies, they shall issue their warrant to the sheriff of said [county] to summon eighteen freeholders to meet on the land to be valued, on a day expressed in said warrant, not less than twenty days thereafter, and the sheriff shall summon the freeholders accordingly, and, when met, shall draw twelve of them, who, after being duly sworn, themselves shall impartially value the land in question, and consider the damages the owner thereof may sus- Lands for loca-
tion of road.

tain, and the inquisition so taken shall be signed by the sheriff and the jury and returned to the clerk of the county court to be recorded, and in all cases the jury is hereby directed to describe the land valued; and the president and directors shall pay the same to the owner of the land valued; and if he cannot be found in this State, or should refuse to receive the money, then to the clerk of the county court, and, on payment thereof, the said land shall vest in the company so long as the same shall be used as a plank road: *Provided*, That the dwelling-house, kitchen, yard, garden or burial ground of no person shall be invaded, or any part thereof appropriated to the use of said corporation without the consent of the owner: *Provided further*, That an appeal may be taken from the valuation by the jury hereinbefore mentioned, to be prosecuted in the same courts and under the same rules that now regulate appeals from justices of the peace.

Land for the
erection of toll
houses.

SEC. 14. *Be it further enacted*, The board may agree with the owner for any quantity of land not exceeding two acres, at or near each station intended for collecting tolls, and in case of disagreement, or of any disabilities aforesaid, or the owner or owners being out of the State, the same proceedings may be had as are described in the preceding section.

Toll.

SEC. 15. *Be it further enacted*, The said board may demand and receive, at convenient gates, a reasonable toll from all persons using said road, which toll shall be regulated so that the profits shall not exceed twenty per cent. on the capital of said company in any one year.

Width of road.

SEC. 16. *Be it further enacted*, The road said shall be not less than eight nor more than sixty feet wide. So

soon as ten miles in extent shall have been constructed, the president and directors may erect a toll-gate, and if any person shall refuse to pay the toll at the time of offering to pass the place designated for its collection, and previously to passing the same, the toll-gatherer may refuse a passage to him so failing to pay; and if any person shall pass or drive through any wheeled carriage or animal liable to toll without paying the same, he shall be liable to a fine of five dollars, which fine may be recovered by warrant before any justice of the peace for the county in which the gate is erected.

SEC. 17. Any person wilfully or maliciously damaging, or wilfully or maliciously causing, aiding, or counselling any other person to damage or obstruct the said road, toll-gates, or toll-houses, shall be liable to be indicted therefor as a misdemeanor.

Damage to
road punish-
able.

SEC. 18. The board shall render accounts of their proceedings to the annual meeting of the stockholders.

Account of
proceedings.

SEC. 19. Whenever said road shall cross any established road or way, the president and directors shall so construct the said plank road as not to impede passage along said way, and if it be necessary or expedient to use any portion of any established public road or way, it may be lawful for the board to change said road at points where they may deem it necessary; and that for entering upon or taking land necessary therefor, they are authorized to proceed under the provisions of this act in the case of land necessary for the plank road: *Provided*, That previously to the making of any such change, the said company shall make a road equally good with the portion for which

Intersection
with other
roads—pro-
ceedings in
such case.

it is substituted ; but it shall not be incumbent on the company to keep in repair the portion of any road which they may have changed as aforesaid.

Report.

SEC. 20. Any number of stockholders holding one-fourth of the stock, by a request in writing to the board, may cause a general meeting to be called ; and to such meeting the board shall make a report similar in all respects to the one required to be made at annual meetings.

Terminus of
road.

SEC. 21. If, at any general meeting of the stockholders of said company, it shall be determined to construct said road from Chapel Hill so far only as the depot on the North Carolina railroad at or near Jeremiah Morris's, in the county of Wake, it shall be lawful for them so to do.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

CHAPTER CI.

AN ACT TO INCORPORATE THE DUPLIN PLANK ROAD COMPANY.

SEC. 1. *Be it enacted by the General Assembly of* Corporate title.
the State of North Carolina, and it is hereby enacted
by the authority of the same, That Owen R. Kenan,
 Daniel C. Moore, Isaac B. Kelly, John J. Whitehead,
 John Bryan, John B. Monk, and Benajah Carroll, with
 such persons as may hereafter be associated with
 them, their successors and assigns, be and they are
 hereby created a body politic and corporate, by the
 name and style of the Duplin Plank Road company,
 and by that name and style may acquire, hold, pos-
 sess, and transfer any real, personal, and mixed estate,
 so far as may be necessary for the purpose of con-
 structing the road herein authorized to be made, or of
 managing the affairs of said company, and shall have
 perpetual succession and a common seal, which they
 shall have power to alter or renew at pleasure, and
 shall have and enjoy all the rights and privileges which
 other corporate bodies may lawfully do, for the pur-
 poses mentioned in this act, and may make all such
 by-laws, rules and regulations, not inconsistent with
 the laws of this State or of the United States, as shall
 be necessary for the well ordering and conducting of
 the affairs of the company, and by said name may sue
 and be sued, plead and be impleaded, in any of the
 courts of this State.

SEC. 2. *Be it further enacted,* That the capital Capital stock.
 stock of said company shall not exceed twenty thous-
 and dollars, in shares of fifty dollars each, the payment

or securing of the stock of the said company to be made under such rules and regulations as may be provided by the board of directors hereinafter provided for. The said company shall have power to construct a plank road from Kenansville to Strickland's depot, in the county of Duplin, passing over the most practicable route between the points as aforesaid.

General meeting.

SEC. 3. *Be it further enacted,* That a general meeting of the stockholders of the said company shall be called at such time and place as may be convenient for the same, by giving public notice at three or more public places at least ten days, of the time and place of holding such meeting; that to constitute any such meeting, a number of shares entitled to a majority of votes which would be given upon all the shares subscribed, shall be present either in person or by proxy; and if a sufficient number to constitute a meeting do not attend on that day, those who do attend shall have power to adjourn from time to time until a meeting shall be formed.

President and Directors.

SEC. 4. *Be it further enacted,* That the subscribers to the stock of the said company, at their meeting hereinbefore directed to be called, and the proprietors of stock at any annual meeting thereafter, shall elect five directors and a president, with all other officers necessary for the transaction of business, who shall continue in office, unless sooner removed, until the next annual meeting after their election, and until their successors shall be elected; but the said president and directors, or any of them, may at any time be removed, and the vacancy filled by a majority of the votes given in any general meeting. The president, with any two or more of the directors, or in the absence of the president, any three or more of the

directors, who may appoint one of their number president *pro tem.*, shall constitute a board for the transaction of business. In case of a vacancy in the board of directors, happening from resignation or otherwise, [it] shall be supplied by the appointment of the board until the next annual meeting.

SEC. 5. *Be it further enacted*, That the board of directors of said company shall be and they are hereby invested with all the rights and powers necessary to the construction and repairs of the plank road herein authorized to be made, and also to make, purchase, and construct all such mills and other works as may be necessary for the construction and well ordering of said road. Rights and powers.

SEC. 6. *Be it further enacted*, That the board of directors shall have power to make contracts with any person or persons on behalf of the company for the construction of said road, and of performing all other things respecting the same which they may think necessary, and from time to time require of the stockholders, such advances of money on their respective shares as the wants of the company may demand, until the whole of their subscriptions shall be paid; to call, on any emergency, a general meeting of the stockholders, giving at least twenty days' notice thereof; to appoint such officers as they may deem necessary to transact the business of the company, taking from them, at their discretion, bond and security for the faithful discharge of their several duties and duly accounting for all moneys coming into their hands; to appoint such superintendents, managers and toll-collectors as may be necessary, and generally to transact all the business of the company between the general meetings of the stockholders. Contracts. Officers.

Delinquent
stockholders.

SEC. 7. *Be it further enacted*, That if any stockholder shall refuse to pay the sum required of him by the board of directors, it shall and may be lawful for the said board of directors to sell at public auction and to convey to the purchaser the share or shares of such stockholder so failing or refusing, giving twenty days' previous notice of the time and place of such sale, in manner aforesaid, and, after retaining the sum due and the expenses of the sale out of the proceeds thereof, to pay the surplus over to the former owner, or to his legal representatives, and if said sale shall not produce the sum to be advanced, then the said board of directors may recover the balance of the original proprietor or his assignee, or of the executor or administrator of either of them, by suit in any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county in which he, she or they may reside, and any purchaser of the stock of the company under a sale by order of the board of directors, shall be subject to the same rules and regulations as the original proprietors.

Lands for loca-
tion of road.

SEC. 8. *Be it further enacted*, That the said board of directors, their officers or agents, may agree with the owners of any land over which the said road is intended to pass for the purchase and transfer thereof, and, in case of disagreement, or if the owners shall be *feme covert*, under age, *non compos mentis*, or out of the State, on application to any two justices of the peace of the county where the land lies, the justices shall issue their warrant to the sheriff of said county to summon eighteen freeholders to meet on the land to be valued, on the day expressed in said warrant, not less than ten nor more than twenty days thereafter, and the sheriff, on the receipt of the warrant, shall summon the freeholders accordingly, and, when met,

shall draw twelve of them, who, after being duly sworn, shall impartially value the land in question and consider the damages, if any, the owner thereof may sustain, and the inquisition so taken shall be signed by the [jury] and countersigned by the sheriff and returned to the clerk of the county court to be recorded, and in all cases the jury is hereby directed to describe the land valued, and such valuation shall be conclusive; and the said board of directors shall pay the sum to the owner of the land valued, or his legal representative, and if neither can be found in this State, or if they refuse to receive the money, then to the clerk of the county court, and, on payment thereof, the said corporation shall be seized in fee of the land as fully and absolutely as if it had been conveyed to them by the owner.

SEC. 9. *Be it further enacted*, That the said board of directors, or their agents, may agree with the proprietor or proprietors for any quantity of land they may deem necessary for their purposes, at or near each station intended for the collection of tolls, for the purpose of erecting the necessary buildings, gates, &c., intended for the purposes of the company, and, in case of disagreement or any disabilities as aforesaid, the same proceedings may be had and the same conveyance shall follow as are prescribed in the preceding section: *Provided*, That, in case of disagreement, not more than five acres of land shall be condemned to the use of the company at any one station.

Lands for toll-houses.

SEC. 10. *Be it further enacted*, That it shall be lawful for the said board of directors, as soon as five miles are completed, to demand and receive, at convenient places or toll-gates by them to be erected, a reasonable toll from all persons using said plank road,

Toll.

said road to be made not less than eight nor more than forty feet wide: *Provided*, The toll collected on said road shall be so regulated that the profits shall not exceed twenty per cent. on the capital of said company in any one year.

Refusal to pay
toll—penalty
therefor.

SEC. 11. *Be it further enacted*, That if any person or persons shall refuse to pay the toll at the time of offering to pass the place or places designed for the collection of tolls, and previous to passing the same, the toll-gatherers respectively may refuse a passage to the person thus refusing to pay, and if any person fraudulently or forcibly pass any gate thereon without having paid the legal toll, and every person who to avoid paying the legal toll, shall, with his team, carriage or horse, fraudulently turning out of said road on ground adjacent thereto, [*and*] shall enter again upon such road, and any person who shall fraudulently use said road between the points designated for the collection of said tolls without paying the same, he, she or they shall pay a fine of five dollars, to be recovered by warrant before any justice of the peace in said county.

Injury to road,
&c., made
unishable.

SEC. 12. *Be it further enacted*, That if any person shall wilfully obstruct said road, [he] shall be liable to indictment, and upon conviction shall be fined or imprisoned, at the discretion of the court.

Proceedings in
case of inter-
section with
other roads.

SEC. 13. *Be it further enacted*, That whenever in the construction of said road it may be necessary to cross or intersect any established road or way, it shall be the duty of the board of directors so to construct the said plank road across such established road or way as not to impede the passage for transportation of persons or property along the same; and if in the construction of said plank road, or of any toll-gate or

toll-house, it may become necessary or expedient to use or change any portion of any established road or way, it may be lawful for the board of directors to change the said road or roads at points where they may deem it necessary to do so, and for entering upon or taking any land therefor they shall be and are authorized hereby under the provisions of this act as in case of land necessary for the plank road: *Provided further*, That previous to any such change, the said company shall make and prepare a road equally good with the one proposed to be substituted, but nothing herein contained shall be so construed as to make it incumbent on the said company to keep in repair the portion of the road they may have changed as aforesaid.

SEC. 14. *Be it further enacted*, That this act shall be in force from and after its ratification, and continue for fifty years. Duration of
charter.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

CHAPTER CII.

AN ACT TO AMEND AN ACT PASSED BY THE GENERAL ASSEMBLY AT THE SESSION OF 1850-51, ENTITLED "AN ACT" TO INCORPORATE "THE FAYETTEVILLE AND CENTRE PLANK ROAD COMPANY."

Authority to
change terminus
of road.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same,* That the stockholders in the company aforesaid, at any general meeting which may be held, shall have full authority to change the terminus of their road from Centre, and to make the same at such other place in the county of Stanly as they may deem necessary.

SEC. 2. *Be it further enacted,* That this act shall be in force and take effect from and after its ratification.

[Read three times and ratified in General Assembly, this 6th day of November, A. D., 1852.]

CHAPTER CIII.

AN ACT TO INCORPORATE THE FAYETTEVILLE AND RALEIGH PLANK ROAD COMPANY.

SEC. 1. *Be it enacted by the General Assembly of* Corporate title.
the State of North Carolina, and it is hereby enacted
by the authority of the same, That Archibald Mc-
 Lean, John C. Williams, Nathan King, James W.
 Strange and Murphy V. Jones, together with such per-
 sons as are now or may hereafter be associated with
 them, their successors or assigns, be, and they are here-
 by created a corporation and body politic, by the name
 and style of the Fayetteville and Raleigh Plank Road
 Company, and by that name and style may acquire,
 hold, possess and transfer such real, personal and mix-
 ed estates, so far as may be necessary for constructing
 the road herein authorized to be made, or of managing
 the affairs of said company; and shall have perpetual
 succession, and a common seal which they shall have
 power to alter and renew at pleasure; and may make
 all such by-laws, rules and regulations as may be ne-
 cessary for the good government of the corporation:
Provided, such by-laws, rules and regulations be not Proviso.
 inconsistent with the laws of this State or of the
 United States; and by their said corporate name, may
 sue and be sued, plead and be impleaded in any of the
 courts of this State.

SEC. 2. *Be it further enacted,* That Capital.
 the capital
 stock of said company shall not exceed the sum of two
 hundred thousand dollars, in shares of twenty-five dol-
 lars each, and that the payment or securing of the
 stock of said company shall be made under such rules

and regulations as may be prescribed by the board of directors hereinafter to be provided for.

Direction of
road.

SEC. 3. *Be it further enacted,* That the said company shall have power to construct a plank road from the town of Fayetteville to the city of Raleigh; starting from the town of Fayetteville, in the county of Cumberland, by the way of Green and Ramsay streets, and running thence on the west side of the Cape Fear River direct to Kingsbury, from thence to the city of Raleigh.

General meet-
ing.

SEC. 4. *Be it further enacted,* That a general meeting of the stockholders shall be called at such time and place as may hereafter be deemed expedient, by giving public notice of the time and place at least ten days before such meeting, in one of the public papers in the town of Fayetteville; that to constitute such meeting, a number of shares entitled to a majority of votes shall be present, either in person or by proxy, which could be given upon all the shares subscribed; and if a sufficient number to constitute a meeting do not attend, then those who are present, either in person or by proxy, shall have power to adjourn from time to time, until a meeting can be formed.

How constitu-
ted.

SEC. 5. *Be it further enacted,* That the subscribers to the stock of said company at their meeting herein before directed to be called, and the proprietors of stock at every annual meeting thereafter, shall elect seven directors, and the directors when elected shall choose one of their number president, who shall continue in office, unless sooner removed, until the next annual meeting after their election, and until their successors shall be chosen; but the said directors or any

President and
Directors.

of them, may at any time be removed, and the vacancy thereby occasioned, be filled by a majority of the votes given at any general meeting; the president with any three or more of the directors, or in the event of the necessary absence of the president, any five or more of the directors, who may appoint one of their number president *pro tem*, shall constitute a board for the transaction of business : in cases of vacancy Vacancies.
in the board of directors from death, resignation or otherwise, such vacancy may be supplied by the appointment of the board until the next annual meeting.

SEC. 6. *Be it further enacted*, That the said Contracts.
board of directors shall have power to make contracts on behalf of the company, with any person or persons, for the construction of said road, and to require from the stockholders, from time to time, such advances of money on their respective shares as may be necessary, until the whole of their subscription be paid ; to call on any emergency a general meeting of the stockholders, giving at least ten days notice in one of the papers printed in the town of Fayetteville ; and shall Officers.
have power to appoint all such officers as they may deem necessary, taking from them bond and security for the faithful execution of their respective duties ; and to appoint superintendents, managers, and toll-gatherers, with such compensation or salaries for their services as may be deemed reasonable, and generally to transact all the business of the company between the general meetings of the stockholders.

SEC. 7. *Be it further enacted*, That in case any Proceedings in
case of failure
of Stockholder
to pay.
stockholder shall fail or refuse to pay the sum required of him by the board of directors, that the said board of directors are authorized to sell at public auction the share or shares of such stockholder, and convey the

same to the purchaser, giving twenty days' notice of the time of such sale in manner aforesaid, and after retaining the sum due and all the charges of the said sale out of the proceeds thereof, to pay the surplus over to the former owner or his legal representatives, and if the said sale shall not produce the sum required to be advanced, then the deficiency shall be recovered by the board out of the original proprietor or his assignee, or of his executor or administrator, or either of them, by suit in any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county in which he, she, or they are residents; and any purchaser of the stock of the company shall be subject to the same rules and regulations as the original proprietor.

Lands for the
location of
road—how to
be obtained.

SEC. 8. *Be it further enacted*, That the said board of directors, their officers or agents, may agree with the owners of any land over which the said road is intended to pass for the purchase and transfer thereof, or, in case of disagreement, or if the said owner shall be *feme covert*, under age, *non compos mentis*, or out of the State, on application to any two justices of the peace of the county where the said lands lie, the justices shall issued their warrant to the sheriff of the county to summon eighteen freeholders to meet on the land to be valued, on the day expressed in the warrant, not less than ten nor more than twenty days thereafter, and the sheriff, on the receipt of the warrant, shall summon the freeholders accordingly, and, when met, shall draw twelve of them, who, after being duly sworn, shall impartially value the said land in question and consider the damages, if any, the owner thereof may sustain, and the inquisition so taken shall be signed by the jury and countersigned by the sheriff and returned to the county court to be recorded; and, in all cases the jury is directed to describe the land valued,

and in case of dissatisfaction with the amount of damages assessed, either party may appeal to the county or superior courts, and the said board shall pay the said damages, if any, to the owner of the land valued, or his legal representative, and if neither can be found in the State, or if they refuse to receive the money, then to the clerk of the county court, and, on payment thereof, or if there be none awarded, the said corporation, upon such finding, shall be seized in fee of the land as fully and absolutely as if it had been conveyed by the owner or owners, and said corporation shall be subject to the provisions of an act passed in 1850-51, chapter CLIII, entitled "An act concerning plank roads and turnpike roads."

SEC. 9. *Be it further enacted,* That the board of directors, or their agents, may agree with the proprietor or proprietors for any land they may deem necessary for their purposes, for the erection of toll-houses, gates or buildings for the benefit of the company, and in case of disagreement or disability as aforesaid, the same proceedings may be had and the same conveyance shall follow as are prescribed in the preceding section: *Provided,* That in cases of disagreement or other disability not more than two acres of land shall be condemned at any one station for the use of the company.

Land for toll-houses—how obtained.

SEC. 10. *Be it further enacted,* That so soon as five miles of said road shall have been completed the board of directors are authorized to receive and demand toll, at convenient toll-gates, to be by them erected, from all persons using said plank road; and that said road shall be made not less than eight nor more than sixty feet wide, and that upon all bridges the company may construct in the building of said

Toll.

road, they may have full power and authority to collect tolls from persons using the said bridges: *Provided*, That the tolls be so regulated that the profits shall not exceed twenty-five per cent. of [on] the capital in any one year.

Penalty of refusal to pay toll.

SEC. 11. *Be it further enacted*, That if any person or persons shall at the time of offering to pass the places designated for the collection of tolls, refuse to pay the toll, the toll gatherers respectively may refuse a passage to the person or persons refusing to pay; and if any person or persons forcibly or fraudulently pass any gate or place designated for the collection of tolls on said road, without having paid the legal toll, and any and every person or persons, who to avoid paying the legal toll, shall, with his team, carriage or horse, turn out of said road on ground adjacent thereto, and enter again on said road, and any person or persons who shall fraudulently use said road between the respective toll gates without paying the same, he, she or they, shall pay a fine of five dollars to be recovered by warrant before any Justice of the Peace in the County wherein such toll gate shall be situated.

Injury to road punishable.

SEC. 12. *Be it further enacted*, That if any person or persons shall wilfully or maliciously injure, damage or obstruct, or shall wilfully and maliciously cause or procure any other person to injure, damage, or obstruct the said plank road, toll gate or toll houses, or any other property or effects of said company, such person or persons so offending shall be liable to indictment, and on conviction, shall be fined or imprisoned at the discretion of the court before which such conviction shall be had, and be further liable to said company in a suit for such damages as the company may have sustained.

SEC. 13. *Be it further enacted,* That distinct Account of proceedings. accounts of the proceedings and disbursements of the board shall be made by them to the annual meetings of the stockholders.

SEC. 14. *Be it further enacted,* That in addition to the authority herein confirmed to the said company, that they shall have full power in general meeting of the stockholders to establish such branches diverging from the main line as the stockholders may deem necessary for the good of the company, and may construct or cause to be constructed, all works whatsoever as may be deemed proper and necessary for their completion ; and should it be deemed more advantageous to [the] interests of the said company to do so, such branch or branches under the direction of the stockholders, may be constructed by the board of directors before the main stem is completed. Authority to establish branches.

SEC. 15. *Be it further enacted,* That when in the construction of said road, it shall be necessary to cross or intersect any established road or way, it shall be the duty of the board of directors so to construct the said plank road across such established road or way as not to impede the progress or transportation of persons or property along the same ; or if in the construction of said plank road or any toll house or toll gate, it may become necessary to use or change any road or way, it may be lawful for the said board of directors to change the said road or way at points where they may deem it necessary or expedient to do so, and for entering upon and taking any land therefor, they are authorized to proceed under the provisions of this act, as in case of land necessary for the plank road : *Provided,* That previous to any such change, the said company shall make and prepare a road equally good as Proceedings in case of intersection with other roads.

the one proposed to be changed ; but nothing herein contained shall be so construed to make it incumbent upon the said company to keep in repair the portion of the road that they may have changed as aforesaid, unless the said change shall make the construction of a bridge or bridges necessary, then and in that case, it shall be the duty of the company to keep in repair such bridge or bridges, the construction of which became necessary by changing the public road as aforesaid.

Duration of
charter.

SEC. 16. *And be it further enacted,* That this act shall be in force from and after the ratification thereof, and shall be regarded as a public act and be in force for thirty years.

[Read three times and ratified in General Assembly,
this 17th day of December, A. D., 1852.]

CHAPTER CIV.

AN ACT TO INCORPORATE THE GREENSBORO' AND
DEEP RIVER PLANK ROAD COMPANY.

SEC. 1. *Be it enacted by the General Assembly* Books to be opened.
of the State of North Carolina, and it is hereby enacted
by the authority of the same, That it shall be lawful
to open books in the town of Greensboro' under the
direction of W. S. Rankin, John A. Gilmer, C. N.
McAdoo, W. J. McConnell, W. A. Caldwell, Robert
W. Glenn, F. Shaw, W. M. Mebane, Albert Rankin,
James Stuart, Joshua Clapp, David B. Causey, and
Roddy Hanner, or any three of them, at such places
as may be deemed advisable; in the county of Chatham,
under the direction of Peter Evans, Laurence Haugh-
ton, John Hooker, William Hays, and Spence Mc-
Lanahan, or any three of them; at Fayetteville, under
the direction of Thomas Waddell, Thomas Lutterloh,
John Winslow, and H. L. Myrover, or any three of
them; and at such other places as the commissioners
hereinbefore named to superintend the receiving of
subscriptions in the town of Greensboro', shall direct,
for the purpose of receiving subscriptions to an amount
not exceeding one hundred thousand dollars, in shares
of fifty dollars each, for the purpose of constructing
a plank road from the town of Greensboro' to Evans'
Mills, or some other point on Deep River, between
Evans' Mills and the town of Haywood, in the county
of Chatham, to be determined on by the said company
after the same shall have been formed.

SEC. 2. *Be it further enacted,* That the times Books to be kept open from time to time.
and places of receiving such subscriptions shall be

advertised in one or more newspapers published in the State; and the books for the receiving the same shall not be closed within ten days after the opening, and said commissioners shall have power to open books from time to time as they think proper, until the whole number of shares shall be subscribed.

Corporate title.

SEC. 3. *Be it further enacted*, That when the sum of twenty-five thousand dollars shall be subscribed for in manner aforesaid, the subscribers, their executors, administrators, or assigns, shall be and they are hereby declared to be incorporated into a company by the name and style of the Greensboro' and Deep River Plank Road company, and by that name shall be capable in law of purchasing, holding, selling, leasing, and conveying estates, real, personal and mixed, so far as may be necessary for the purpose of said company, either in constructing said road or managing the affairs of said company, and shall have perpetual succession; and by said corporate name may sue and be sued, and may have a common seal, which they shall have power to alter and renew at pleasure, and shall have and enjoy, and may exercise all the powers, rights, and privileges which other corporate bodies lawfully do, for the purpose mentioned in this act, and may make all such by-laws, rules and regulations, not inconsistent with the laws of this State or of the United States, as shall be necessary for the well ordering and conducting the affairs of said company.

Rights and powers.

Payments.

SEC. 4. *Be it further enacted*, That upon any subscription of stock as aforesaid, there shall be paid, at the time of subscribing, to the said commissioners or their agents appointed to receive such subscriptions, the sum of one dollar on every share subscribed;

and the residue thereof shall be paid or secured in such manner and at such time or times as may be required by the board of directors of said company.

SEC. 5. *Be it further enacted*, That the said commissioners or their agents shall, forthwith after the first election of a board of directors of the company, pay over to said directors all moneys received by them, and in failure thereof, the said directors may recover the amount due from them by legal process, in the court of pleas and quarter sessions, or in the superior court of law in any county wherein such commissioner or commissioners may reside, or by warrant before any justice of the peace for said county.

Moneys to be paid over to Directors.

SEC. 6. *Be it further enacted*, That when twenty-five thousand dollars shall have been subscribed, public notice of that event shall be given by the said commissioners at Greensboro', who shall at the same time call a general meeting of the stockholders at such convenient time and place as they shall name in said notice.

General meeting.

SEC. 7. *Be it further enacted*, That to constitute any such meeting, a number of persons entitled to a majority of all the votes which could be given upon all the shares subscribed, shall be present, either in person or by proxy, and if a sufficient number to constitute a meeting do not attend on that day, those who attend shall have power to adjourn from time to time until a meeting shall be formed.

How constituted.

SEC. 8. *Be it further enacted*, That the subscribers, at their general meeting before directed, and the proprietors of stock at every annual meeting thereafter, shall elect nine directors, and the directors, when ap-

President and Directors.

pointed, shall choose one of their number president, who shall continue in office, unless sooner removed, until the next annual meeting after their election, and until their successors shall be elected; but the said directors, or any of them, may at any time be removed, and the vacancy thereby occasioned be filled by a majority of votes given at any election. The president, with any three or more directors, or in the event of sickness, absence or disability of the president, any four or more of the directors may appoint one of their number president *pro tempore*, who shall constitute a board for the transaction of business. In cases of vacancy in the board of directors happening from death, resignation or otherwise, such vacancy may be supplied by the appointment of the board until the next annual meeting.

Vacancies.

SEC. 9. *Be it further enacted*, That the board of directors of said company shall be and are hereby invested with all the rights and powers necessary for the construction, repairs and maintaining of a plank road, to be called as aforesaid, and also to make and construct all works whatsoever which may be necessary to the completion of said road.

Rights and Privileges.

SEC. 10. *Be it further enacted*, That the said board of directors shall have power to make contracts with any person or persons on behalf of said company for the making of the said plank road and performing all other things respecting the same which they shall judge necessary and proper; and to require from the subscribers from time to time such advances of money on their respective shares as the wants of the company may demand, until the whole of their subscriptions shall be advanced; to call, on any emergency, a general meeting of the stockholders, giving one month's

Contracts.

notice thereof in one or more of the newspapers printed in each of the towns of Greensboro' and Fayetteville; to appoint such officers as they may deem necessary to transact the business of the company, taking from them bond and security for the faithful discharge of their several duties, and duly accounting for all moneys coming into their hands; to appoint such superintendents, managers and toll-gatherers as may be necessary, and generally to transact all the business of the company between the general meetings of the stockholders.

Officers.

SEC. 11. *Be it further enacted*, That if any stockholder shall fail to pay the sum required of him by the board of directors, or by a majority of them, within one month after the time the same shall have been advertised in one or more newspapers published in each of the towns of Greensboro' and Fayetteville, it shall and may be lawful for the said board of directors, or a majority of them, to sell at public auction and to convey to the purchaser the share or shares of such stockholder[s] so failing or refusing, giving one month's previous notice of the time and place of sale and manner aforesaid, and after retaining the sum due and all the charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner, or his legal representatives; and if the said sale shall not produce the sum required to be advanced, with all incidental charges attending the sale, then the said board of directors may recover the balance of the original proprietor, or his assignee, or the executor or administrator, or either of them, by suit in any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county of which he is a resident; and any purchaser of the stock of the company under a sale by order of the board of directors

Proceedings in case of failure of a Stockholder to pay.

shall be subject to the same rules and regulations as the original proprietors.

Increase of
capital.

SEC. 12. *Be it further enacted*, That if the capital stock of the company hereby incorporated shall be found insufficient for the purpose of this act, it shall and may be lawful for the board of directors of the said company, or a majority of them, to increase from time to time the capital stock to an amount not exceeding one hundred and fifty thousand dollars by the addition of as many shares as they may deem necessary by opening books in the town of Greensboro' and such other places and in such manner as they may deem prudent and necessary, and the subscribers of such additional shares of the capital stock of said company are hereby declared to be thenceforward incorporated into the said company with all the privileges and advantages and subject to all the liabilities of the original stockholders.

Authority to
issue certificates of stock.

SEC. 13. *Be it further enacted*, That the president and directors of the said company may, if they deem it necessary to secure this charter, or the construction of said road, prepare and issue certificates of stock for such amounts as individuals desirous of subscribing to the capital stock of said company may feel willing and prepared to pay into the treasury of said company at the time of subscribing; and the holders of all such certificates thus issued by the president and directors shall be entitled to call for, and receive the same dividends and profits as other stockholders, in proportion to the amount of stock held or owned by them respectively.

Lands for location of road—
how obtained.

SEC. 14. *Be it further enacted*, That the said board of directors, their officers or agents may agree with the owners of any lands over which the said road

is intended to pass for the purchase thereof; and in case of disagreement, or if the owners shall be *feme covert*, under age *non compos*, or out of the State, on application to any two justices of the peace of the county where the lands lie, the justices shall issue their warrant to the sheriff of said county to summon eighteen freeholders to meet on the land to be valued on a day expressed in the said warrant, not less than ten nor more than twenty days thereafter, and the sheriff upon the receipt of the warrant, shall summon the freeholders accordingly, and when met shall draw twelve of them, who, after being duly sworn, shall impartially value the land in question, and consider the damages the owners thereof may sustain; and the inquisition so taken, shall be signed by the jury and countersigned by the sheriff, and returned to the clerk of the county court to be recorded; and in all cases the jury is hereby directed to describe the land valued, and such valuation shall be conclusive, and the said directors shall pay the sum to the owner of the land valued or his legal representative; and if neither can be found in the State, or if they refuse to receive the money, then to the clerk of the county court, and on payment thereof, the said corporation shall be signed [seized] in fee of land as fully and absolutely as if it had been conveyed to them by the owners.

SEC. 15. *Be it further enacted*, That the said board of directors or their agents may agree with the proprietor or proprietors for any quantity of land that they may deem necessary for their purposes, at or near each place or station intended for the collection of tolls, for the purpose of erecting the necessary buildings, gates, &c.; and in case of disagreement or of any disabilities as aforesaid, or the owner or owners being out of the State, the same proceedings may be had and

Lands for toll-houses, &c.—
how to be obtained.

the same consequences shall follow as are described in the preceding section: *Provided*, That in case of disagreement not more than two acres of land shall be condemned to the use of said company at any one station.

Toll.

SEC. 16. *Be it further enacted*, That it shall and may be lawful for the board of directors to demand and receive at some convenient toll gate, to be by them erected, a reasonable toll from all persons using said road, which toll so to be collected, shall be so regulated that the profits shall not exceed twenty-five per cent. on the capital stock of said company in any one year.

Width of road.

SEC. 17. *Be it further enacted*, That the road hereby authorized to be made, shall not be made less than eight nor more than sixty feet wide, and that as soon as five miles in extent shall have been constructed, it shall and may be lawful for the said board of directors to demand and collect such tolls from persons using said road as may by them be determined in accordance with the rates imposed by the sixteenth section of this act, and in like proportion for a greater extent of road; and if any person or persons shall refuse to pay the toll at the time of offering to pass the place or places designated for the collection of tolls and previous to passing the same, the toll gatherers respectively may refuse a passage to the person or persons refusing to pay; and if any person or persons shall pass or drive through, or pass or drive round said place any wheeled carriage or animal liable to toll without paying the same, he or they shall be liable to pay a fine of five dollars, which may be recovered by warrant before any justice of the peace of the county wherein such toll gate or point of collection

Penalty of refusal to pay.

is situated ; and if any person or persons shall drive on or use any part of said road between the points designated for the collection of tolls, without paying the amount for which he or they may be liable, it shall be held that he or they are fraudulently using the same, and he, she or they shall be [li]able to pay a fine of five dollars, which may be recovered by warrant as hereinbefore prescribed.

SEC. 18. *Be it further enacted*, That if any person or persons shall maliciously or wilfully injure or in any manner hurt, damage or obstruct, or shall wilfully or maliciously cause, aid, assist, counsel or advise any other person or persons to injure, hurt, damage or obstruct the said plank road, toll-gates or toll-houses, or any of the property or effects of said company, such person or persons so offending shall be liable to be indicted therefor, and, on conviction, shall be imprisoned at the discretion of the court before which said conviction shall take place.

Damage to
road punish-
able.

SEC. 19. *Be it further enacted*, That distinct accounts shall be made to the annual meeting of the stockholders of their proceedings and disbursements by the board of directors: *Provided*, That if a number of stockholders, holding one-fourth in amount of the capital stock of said company, shall ask of the board in writing a call of a general meeting of the stockholders, such meeting shall be called, and to such meeting the board shall make a report similar in all respects to the one required to be made at the annual meeting.

Account of
proceedings.

SEC. 20. *Be it further enacted*, That whenever in the constitution [construction] of said road it may become necessary to cross or intersect any established road or way, it shall be the duty of the board of directors so to

Intersection
with other
roads—pro-
ceedings in
such case.

construct the said plank road across such established way or road as not to impede the passage or transportation of persons or property along the same, and if in the construction of said plank road, or of any toll-gate or toll-house, it may become necessary or expedient to use or change any portion of any established public road or way, it may be lawful for the said board of directors to change the said roads or ways at points where they may deem it necessary or expedient to do so, and that for entering upon or taking any land necessary therefor they shall be and are hereby authorized to proceed under the provisions of this act as in the case of land necessary for the plank road: *Provided further*, That, previous to making any such change, the said company shall make and prepare a road equally good with the road proposed to be substituted; but nothing herein contained shall be so construed as to make it incumbent on said company to keep in repair the portion of any road which they may have changed as aforesaid.

Connection authorized.

SEC. 21. *Be it further enacted*, That should a plank, macadamized, or turnpike road be constructed from the Gulf, in Chatham county, to Graham, in Alamance county, it shall be lawful for the Greensboro' and Deep River Plank Road company to connect with the aforesaid plank, macadamized, or turnpike road by intersecting the same at such points as they may deem expedient.

Commissioners authorized to purchase land.

SEC. 22. *Be it further enacted*, That the commissioners hereinbefore named, or their agents, shall be authorized to purchase, with the moneys paid in as subscriptions to the stock of said road, such lands along the line of said road as they may deem important to aid in the construction of said road, which

lands may again be resold, in which case the sum realized shall be considered as stock in said road, and credited to the subscribers with whose subscription said purchase was made, according to the number of shares of each: *Provided*, No such purchase shall be made except by the unanimous consent and the written authority of the subscribers whose interest is so invested; and provided the said commissioners or their agents shall not, at any one time, own more than ten thousand acres of land; and the lands so purchased shall be resold, and the proceeds invested in stock, or in some other way applied to the construction of said road. Proviso.

SEC. 23. *Be it further enacted*, That this act shall be in force [from] and after its ratification, and shall be regarded as a public act, and be continued in force for fifty years. Duration of charter.

[Read three times and ratified in General Assembly.
this 27th day of December, A. D., 1852.]

CHAPTER CV.

AN ACT TO INCORPORATE THE GULF AND GRAHAM PLANK ROAD COMPANY.

Corporate title.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That* L. J. Haughton, John W. Hooker, Aaron Emerson and David Dixon, with such other persons as now are, or may be hereafter associated with them, their successors or assigns, are hereby created a body corporate and politic, by the name and style of the "Gulf and Graham Plank Road Company," and by that name and style may acquire, hold, possess and transfer such real, personal and mixed estates as may be necessary, for the purpose of constructing the road herein authorized to be made, or of managing the affairs of said company, and shall have perpetual succession, and a common seal, which they shall have power to alter and renew at pleasure, and shall have and enjoy, and may exercise all the powers, rights and privileges which other corporate bodies may lawfully do, for the purposes mentioned in this act; and may make all such by-laws, rules, and regulations, not inconsistent with the laws of this State or of the United States, as shall be necessary for the well ordering and conducting of the affairs of the company; and by that name may sue and be sued, plead and be impleaded, in any of the courts of this State.

Powers.

Capital.

SEC. 2. *Be it further enacted, That* the capital of said company shall not exceed the sum of sixty-five thousand dollars, in shares of fifty dollars each, the

payment or securing of the stock to be made under such rules and regulations as may be prescribed by the board of directors hereinafter provided for. The said company shall have power to construct a plank road from such points as may be selected by the stockholders, near the Gulf, in the county of Chatham, to Graham, in the county of Alamance.

SEC. 3. *Be it further enacted*, That a general meeting of the stockholders shall be called at such time and place as may be deemed convenient for the same, by giving public notice, by advertisements posted at least at three or more public places in the vicinity of the route of said road, giving not less than fifteen days notice of the time and place of such meeting; that to constitute any such meeting, a number of shares entitled to a majority of votes which could be given upon all the shares subscribed, shall be present either in person or by proxy, and if a sufficient number do not attend on that day, those who do attend shall have power to adjourn from time to time until a meeting shall be formed.

General meeting.

How constituted.

SEC. 4. *Be it further enacted*, That the subscribers to the stock of said company, at their meeting hereinbefore directed to be called, and at every annual meeting thereafter, shall elect seven directors, and the directors when appointed, shall choose one of their number president, who shall continue in office unless sooner removed, until the next annual meeting after their election, and until their successors are elected; but the said directors, or any of them, may at any time be removed, and the vacancy thereby occasioned, be filled by a majority of the votes given at any general meeting; the president with any three or more directors, or in the event of sickness, absence or disability of the president

President and Directors.

any four or more of the directors who may appoint one of their number president *pro tem.* shall constitute a board for the transaction of business: in cases of vacancy in the board of directors, happening from death, resignation or otherwise, such vacancy may be supplied by the board until the next annual meeting.

Rights and
powers of Di-
rectors.

SEC. 5. *Be it further enacted,* That the board of directors of said company shall be, and are hereby invested with all the rights and powers necessary for the construction, maintenance and repairs of the plank road herein authorized to be made, and also to make, purchase and construct all such mills, and other works as may be necessary for the construction and well ordering of said road.

Contracts.

SEC. 6. *Be it further enacted,* That the said board of directors shall have power to make all such contracts on behalf of the company, necessary for the construction of said road and of performing all such other things respecting the same, as they shall judge necessary and proper, and to require from the stockholders from time to time, such advances of money on their respective shares, as the wants of the company may demand, until the whole of their subscriptions shall be paid; to call, on any emergency a general meeting of the stockholders, by giving at least fifteen days notice by public advertisements, posted at three of the most public places on the line of said road, and in a newspaper of the town of Fayetteville: to appoint such officers or agents as they may deem necessary to transact the business of the company, taking from them at their discretion bond and security for the faithful discharge of their several duties, and duly accounting for all moneys coming into their hands; to ap-

Officers.

point such superintendents, managers and toll collectors as may be necessary, and generally to transact all the business of the company between the general meetings of the stockholders.

SEC. 7. *Be it further enacted,* That if any stockholder shall fail to pay the sum required of him by the board of directors it shall be lawful for said board of directors to sell at public auction, and to convey to the purchaser the shares of such stockholders so failing or refusing, giving at least fifteen days' notice at three public places contiguous to the line of said road, and in a newspaper of the town of Fayetteville of the time and place of such sale; and after retaining the sum due and all charges of the sale, to pay the surplus over to the former owner or his legal representatives; and if the said sale shall not produce the sum required to be advanced with all the incidental charges attending the sale, then the said board of directors may recover the balance from the original proprietor or his assignee, or of the executor or administrator of either of them by suit in any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county of [in] which such stockholder may reside; and any purchaser of the stock of the company under a sale by order of the board of directors shall be subject to the same rules and regulations as the original proprietor.

Proceedings in case of failure of Stockholders to pay.

SEC. 8. *Be it further enacted,* That the said board of directors, their officers or agents, may agree with the owners of any land over which the said road is intended to pass, for the purchase and transfer thereof; and in case of disagreement, or if the owner be *feme covert*, under age or *non compos mentis*, or out of the State, on application to any two justices of the peace

Lands for toll-houses, &c.—how obtained.

of the county where the lands lie, the justices shall issue their warrant to the sheriff of said county to summon eighteen freeholders to meet on the land to be valued, on a day expressed in the warrant, not less than ten nor more than twenty days after the date of said warrant, and the sheriff, on the receipt of the warrant, shall summon the freeholders accordingly, and when met shall draw twelve of them, who, after being duly sworn, shall impartially value the land in question, and consider the damages, if any, the owner thereof may sustain, and in assessing any such damages, the increased value of the land caused by the construction of the road shall be taken in consideration by the jury, and the inquisition so taken shall be signed by the jury and countersigned by the sheriff, and returned to the clerk of the county court to be recorded; and in all cases the jury is hereby directed to describe the land valued, and such valuation shall be conclusive, and the said board of directors shall pay the value to the owner of the land valued, or to his legal representatives, and if neither can be found in the county, or they refuse to receive the money, then to the clerk of the county court, and on payment thereof, the said corporation shall be seized in fee simple of the land as fully as if it had been conveyed to them by the owner.

Land for the
erection of toll
houses.

SEC. 9. *Be it further enacted*, That said board of directors, or their agents, may agree with the proprietor or proprietors for any quantity of land they may deem necessary for their purposes, at or near any station, for the collection of tolls, or for other road purposes, and in case of disagreement or disability, as aforesaid, the same proceedings may be had and the same conveyance follow as are prescribed in the preceding section: *Provided*, That not more than two acres shall be condemned at any one station without the consent of the owner.

SEC. 10. *Be it further enacted*, That it shall and Toll. may be lawful for said board of directors, as soon as any portion of the road hereby authorized to be constructed shall be completed, to demand and receive in such manner as they may prescribe a reasonable toll from all persons using the same, and the said company shall be further authorized to charge persons who are not traveling the road a distance of more than five miles, [for] crossing any bridges erected by them, the same toll for crossing said bridges as now are or may be established on like bridges in the counties in which they are situated : *Provided*, The tolls be so regulated that the profits shall not exceed twenty per cent. in any one year on the capital.

SEC. 11. *Be it further enacted*, That if any person or persons shall refuse to pay the toll at the time of offering to pass the points designated for the collection of tolls, and, previous to passing the same, the toll collectors respectively may refuse a passage to the person or persons refusing to pay, and if any person forcibly or fraudulently pass any points designated for the collection of toll without having paid the legal toll, and any and every person or persons who to avoid the paying legal toll, shall, with his team, carriage or horse, pass around said points, or turn out of said road on ground adjacent thereto, and enter upon said road, or who shall fraudulently use said road between the points designated for the collection of toll without paying the same, he, she or they shall pay a fine of five dollars, to be recovered by warrant before any justice of the peace in the county wherein such points for the collection of toll shall be situated.

Refusal to pay toll.

Damage to
road, &c., pun-
ishable.

SEC. 12. *Be it further enacted*, That if any person or persons shall wilfully or maliciously damage or injure or obstruct, or shall wilfully or maliciously cause, aid or procure any other person or persons to injure, damage or obstruct the said plank road, toll-gate, toll-house, or any other property or effects of said company, such person or persons so offending shall be liable to be indicted therefor, and, on conviction, shall be fined or imprisoned at the discretion of the court before whom such conviction takes place, and shall be further liable for damages that may be sustained on account of such injury.

Report.

SEC. 13. *Be it further enacted*, That distinct reports and accounts of the proceedings and disbursements of the board shall be made to each annual meeting of the stockholders.

Proceedings in
case of inter-
section with
other roads.

SEC. 14. *Be it further enacted*, That whenever in the construction of said road it may be necessary to cross or intersect any established road, it shall be the duty of the board of directors so to construct the said plank road across such established road as not to impede transportation on the same; and if in constructing said plank road, or any toll-gate, or toll-house, it may become necessary or expedient to use or change any portion of an established road, it shall be lawful for said board of directors to change the established road at such points as they may deem necessary or expedient, and for entering upon or taking any land therefor, they shall be, and are hereby authorized to proceed under the provisions of this act as in cases of land necessary for the plank road: *Provided*, That previous to any such change, the said company shall make a road equally as good as the one proposed to be

taken ; but the said board of directors shall not be required to keep in repair the portion of the road which they may have changed.

SEC. 15. *Be it further enacted*, That this act shall be in force from and after the ratification thereof, and shall be regarded as a public act, and be in force for thirty years. Duration of charter..

[Read three times and ratified in General Assembly, this 20th day of November, A. D., 1852.]

CHAPTER CVI.

AN ACT TO AMEND AN ACT PASSED AT THE SESSION OF 1850-51, ENTITLED "AN ACT TO INCORPORATE THE GREENVILLE AND RALEIGH PLANK ROAD COMPANY."

Repeal of 10th
section of Act
of 1850.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the 10th section of the said act be repealed, and in lieu thereof the following be substituted: That the said president and directors, on behalf of the company, shall have power to make contracts with any person or persons for making the said plank road, together with any branches of the same, and performing all other things respecting the same which they shall judge necessary and proper, and to require from the subscribers, from time to time, such advances of money on their respective shares as the wants of the company may demand, until the whole of their respective subscriptions shall be paid, to call on any emergency a general meeting of the stockholders, giving one month's notice thereof, to be published in any newspaper or newspapers printed in either of the towns of Raleigh, Washington, Tarborough, Goldsboro' and Wilmington, as they may select; to appoint a treasurer from among the stockholders not of their own body, who shall give bond and security for the faithful performance of his duty, and duly accounting for all the money which may come into his hands as treasurer; to appoint a clerk and such managers and toll-gatherers as they may deem necessary; and when in their discretion no clerk*

shall be appointed, to impose upon the treasurer the duties of a clerk, and to transact all the business of the company during the intervals between the general meetings of the stockholders.

SEC. 2. *Be it further enacted*, That the 16th section of said act be repealed, and the following substituted: That the said road hereby authorized to be made by the president and directors, shall not be less than eight feet nor more than sixty feet wide, and that so soon as five miles in extent shall have been constructed, it shall and may be lawful for the president and directors of said company to erect a toll-gate, and collect such toll from persons using said road or any of its branches, as may be determined upon by the president and directors in accordance with the rules imposed by the fifteenth section of this act, and in like proportion for a greater extent of road, and if any person or persons shall refuse to pay the toll, at the time of offering to pass the place or places designated for their collection, and previous to passing the same, the toll-gatherers respectively may refuse a passage to the person or persons so refusing to pay, and if any person or persons shall fraudulently pass or drive through, or pass or drive around said place or places any wheeled carriage or animal liable to toll, without passing through the same, or shall travel on said road between said place or places, with intent to evade the payment of toll, he or they shall be liable to a fine of five dollars, if a white person, and if a slave or free person of color, to be whipped not to exceed twenty lashes, the said fine to be recovered, and the said whipping to be inflicted upon conviction by warrant before any justice of the peace of any county in which the said plank road may be situated.

16th section of
said Act re-
pealed.

Toll.

SEC. 3. *Be it further enacted*, That said company is authorized to charge, on any bridges by them erected, a toll not to exceed one dollar: *Provided*, That any person or persons traveling a distance of five miles on said road, who shall have paid the legal toll for the same, shall not be liable to pay any additional toll for crossing such bridge.

[Read three times and ratified in General Assembly this 27th day of December, A. D., 1852.]

CHAPTER CVII.

AN ACT TO INCORPORATE THE HAYWOOD AND CHAPEL HILL PLANK ROAD COMPANY.

SEC. 1. *Be it enacted by the General Assembly of* ^{Books to be opened.} *the State of North Carolina. and it is hereby enacted by the authority of the same,* That it shall be lawful to open books in the town of Haywood, under the direction of William Crump, Richard Faucett, Robert K. Smith, Dr. William Hughes and B. J. Howze; at Clark's Bridge, New Hope, under the direction of Thomas Bell, Thomas Whitehead, Willis Wilson, Sr., Drs. R. J. Fooshe and William C. Council; at Ferrington's Mill, on New Hope, under the direction of Edward Ferrington, William Merritt, J. C. Stone and George Wynne, and at Chapel Hill, under the direction of David L. Swain, Jesse Hargrave, P. H. McDade, John W. Carr and W. J. Hogan, and at such other places as the commissioners herein before named, to superintend the taking of subscriptions in the town of Haywood, shall direct for the purpose of receiving subscriptions to an amount not exceeding forty thousand dollars, in shares of fifty dollars each, for the purpose of effecting a communication between Haywood and Chapel Hill by means of a plank road; the route and points of making this communication to be determined by the said company after the same shall have been formed.

And kept open
from time to
time.

SEC. 2. *Be it further enacted,* That notice shall be given of the times and places of receiving such subscriptions; and the books for receiving the same shall not be closed within ten days after the opening, and said commissioners shall have power to open books from time to time, as they may think proper until the whole number of shares be subscribed.

Corporate title.

SEC. 3. *Be it further enacted,* That when the sum of ten thousand dollars shall be subscribed for in manner aforesaid, the subscribers, their executors, administrators or assigns, shall be, and they are hereby declared to be incorporated into a company by the name and style of "the Haywood and Chapel Hill Plank Road Company," and by that name shall be capable in law of purchasing, holding, selling, leasing and conveying estates, real, personal and mixed, so far as may be necessary for the purpose of said company, either in constructing said road or managing the affairs of said company, and shall have perpetual succession, and by said corporate name shall sue and be sued, may have a common seal, which they shall have power to renew and alter at pleasure, and may make all such by-laws, rules and regulations, not inconsistent with the laws of this State or of the United States, as shall be necessary for the well ordering and conducting the affairs of said company.

Payments.

SEC. 4. *Be it further enacted,* That upon any subscription of stock as aforesaid, there shall be paid at the time of subscribing to the said commissioners, or their agents appointed to receive such subscriptions, the sum of one dollar on every share subscribed, and the residue thereof shall be paid or secured in such manner and at such time or times as may be required by the board of directors of said company.

SEC. 5. *Be it further enacted*, That the said commissioners or their agents shall, forthwith after the first election of a board of directors of said company, pay over to said directors all moneys received by them, and on failure thereof, the said directors may recover the amount due from them by legal process in the court of pleas and quarter sessions, or in the superior court of law in any county wherein such commissioner or commissioners may reside, or by warrant before any justice of the peace for said county.

Disposition of
moneys.

SEC. 6. *Be it further enacted*, That when ten thousand dollars shall have been subscribed, public notice of that event shall be given by the said commissioners at Haywood, who shall thereupon call a general meeting of the stockholders at such convenient place and time as they may name in said notice.

General meet-
ing.

SEC. 7. *Be it further enacted*, That to constitute any such meeting, a number of persons entitled to a majority of all the votes which could be given upon all the shares subscribed, either in person or by proxy, shall be present; and if a sufficient number to constitute a meeting do not attend or [on] that [day,] those who attend shall have power to adjourn from time to time until a meeting shall be formed.

How constitu-
ted.

SEC. 8. *Be it further enacted*, That the subscribers, at their general meeting above directed, and the proprietors of stocks at every annual meeting thereafter, shall elect a president and five directors, who shall continue in office, unless sooner removed, until the next annual meeting after their election and until their successors shall be appointed, but the said president and directors, or any of them, may at any

President and
Directors.

time be removed, and the vacancy thereby occasioned be filled by a majority of votes given at any general meeting. The president, with any two or more directors, or in the event of sickness, absence or disability of the president, any three or more of the directors may appoint any one of their number president *pro tem.*, who shall constitute a board for the transaction of business. In cases of vacancy in the office of president, or board of directors, happening from death, resignation or otherwise, such vacancy may be supplied by the appointment of the board until the next general meeting.

Rights and powers.

SEC. 9. *Be it further enacted,* That the president and board of directors of said company shall be and they are hereby invested with all the rights and powers necessary for the construction, repairs and maintaining a plank road, to be called as aforesaid, with as many branches diverging from the main stem as they or a majority of them may deem necessary and may cause to be made, and also to make and construct all works whatsoever which may be necessary to the completion of said road and all its branches: *Provided, however,* That no branch shall be undertaken unless it be with the consent of a majority of the stockholders in either a regular or called meeting.

Contracts.

SEC. 10. *Be it further enacted,* That the said president and board of directors, or a majority of them, shall have power to make contracts with any person or persons on behalf of the company for making said plank road and any branches of the same, and performing all other things respecting the same which they shall judge necessary and proper; and to require from the subscribers from time to time such advances

of money on their respective shares as the wants of the company may demand until the whole of their subscriptions shall be advanced; to call, on any emergency, a general meeting of the stockholders, giving one month's notice thereof in three or more public places near the line of said road; to appoint such officers as they may deem necessary to transact the business of the company, taking from them bond and security for the faithful discharge of their several duties and duly accounting for all moneys coming into their hands; to appoint such superintendents, managers and toll-gatherers as may be necessary, and generally to transact all their [the] business of the company between the meetings of the subscribers.

SEC. 11. *Be it further enacted,* That if any stockholder shall fail to pay the sum required of him by the president and directors as above set forth within three months thereafter he shall be notified of the same, it shall and may be lawful for the president and directors as aforesaid, or a majority of them, to sell at public auction and to convey to the purchaser the share or shares of such stockholder so failing or refusing, giving at least one month's previous notice of the time and place of sale by advertisements posted up at Haywood, Chapel Hill and other public places along the line of the said road, and, after retaining the sum due and all the charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner or his legal representatives; and if the said sale shall not produce the sum required to be advanced, with all the incidental charges attending the sale, then the said president and board of directors as aforesaid may recover the remainder of the original proprietor or his assignee, or the executor or administrator, or either of them, by

Delinquent
Stockholders.

suit in any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county of which he is a resident; and any purchaser of the stock of the company under a sale by order of the president and directors shall be subject to the same rules and regulations as the original proprietor.

Increase of
Capital Stock.

SEC. 12. *Be it further enacted*, That if the capital stock of the company hereby incorporated shall be found insufficient for the purposes of this act, or if hereafter it may be deemed expedient by a majority of the stockholders in general meeting to extend the main stem of said road to Hillsboro', or to some point [on] the North Carolina Railroad within the county of Orange, or to connect branches with the main stem, then it shall and may be lawful for the president and directors of the company, or a majority of them, to increase from time to time the capital stock to an amount not exceeding one hundred thousand dollars by an addition of as many shares as they may deem necessary, by opening books at Haywood and at such other places and in such manner as they may deem prudent and necessary; and the subscribers for such additional shares of the capital stock of the said company are hereby declared to be thenceforward incorporated into the said company with all the privileges and advantages and subject to all the liabilities of the original stockholders.

Lands for the
location of
road—how to
be obtained.

SEC. 13. *Be it further enacted*, That the president and directors, their officers or agents, may agree with the owners of any land over which the said road or any of its branches is intended to pass, for the purchase thereof; and in case of disagreement, or the owners shall be *feme covert*, under age, *non compos*

mentis, or out of the State, on application to any two justices of the peace of the county where the lands lie, the justices shall issue their warrant to the sheriff of said county to summon eighteen freeholders to meet on the land to be valued, on a day expressed in the warrant, not less than ten nor more than twenty days thereafter, and the sheriff, on the receipt of the warrant, shall summon the freeholders accordingly, and when met shall draw twelve of them, who, after being duly sworn, will impartially value the land in question, and consider the damages the owners thereof may sustain, and the inquisition so taken shall be signed by the jury and countersigned by the sheriff, and returned to the clerk of the county court to be recorded; and in all such cases the jury is required to describe the land valued; and in case of dissatisfaction with the amount of damages assessed, either party may appeal to the county or superior court; and the said president and directors shall pay the sum to the owner or owners of the land valued, or his legal representatives, and if neither can be found in this State, or if they refuse to receive the money, then to the clerk of the county court, and on payment thereof, the said corporation shall be seized in fee of the land as fully and absolutely as if it had been conveyed to them by the owner, and said corporation shall be subject to the provisions of an act passed in 1850-51, chapter 153, entitled "An act concerning plank roads and turnpike roads."

SEC. 14. *Be it further enacted*, That the president and directors, or their agents, may agree with the proprietor or proprietors for any quantity of land they may deem necessary for their purposes at or near each place or station intended for the collection of

Land for Toll-house, &c., how to be obtained.

tolls, for the purpose of erecting the necessary buildings, gates, &c.; and in case of disagreement, or of any disabilities as aforesaid, or the owner or owners being out of the State, the same proceedings may be had and the same conveyances shall follow as are described in the preceding section: *Provided*, That no more than two acres shall be condemned at any one station without the owner's consent.

Toll.

SEC. 15. *Be it further enacted*, That it shall and [may] be lawful for the president and directors to demand and receive, at some convenient toll-gates, to be by them erected, a reasonable toll from all persons using said plank road, or any of its branches, which toll so to be collected shall be so regulated that the profits shall not exceed twenty-five per cent. on the capital stock of said company in any one year.

Width of road.

SEC. 16. *Be it further enacted*, That the road hereby authorized shall not be less than eight nor more than sixty feet wide; and as soon as five miles in extent shall have been constructed, it shall and may be lawful for the said president and directors to demand and collect such toll from persons using said road, as may by them be determined in accordance with the rates imposed by the 15th section of this act, and in like proportion for a greater extent of road; and if any person or persons shall refuse to pay the tolls at the time of offering to pass the place or places designated for the collection of tolls, and previous to passing the same, the toll-gatherers respectively may refuse passage to the person or persons refusing to pay; and if any person or persons shall drive or pass through or around said places any wheeled carriage or animal liable to toll, without paying the same, he or

they shall be liable to pay a fine of five dollars, which fine may be recovered by warrant before any justice of the peace of the county wherein such toll-gate or place of collection is situated ; and if any person or persons shall drive on or use any part of said road or its branches, between the points designated for the collection of tolls, without paying the amount for which he or they may be liable, it shall be held that he or they are fraudulently using the same, and he, she, or they shall be liable to pay a fine of five dollars, which may be recovered by warrant as hereinbefore described.

SEC. 17. *Be it further enacted*, That if any person or persons shall wilfully or maliciously injure, or in any manner, hurt damage or obstruct, or shall wilfully or maliciously cause, aid, assist, counsel or advise any other person or persons to injure, hurt, damage or obstruct the said road or any of its branches, the toll-gates or toll-houses, or any of the property or effects of said company, such person or persons so offending shall be liable to be indicted therefore, and on conviction shall be imprisoned or fined at the discretion of the court before which such conviction may take place.

Damage to
road punish-
able.

SEC. 18. *Be it further enacted*, That distinct accounts of the proceedings and disbursements of the board shall be made by them to the annual meeting of the stockholders: *Provided*, That if a number of stockholders having one-fourth in amount of the capital stock of said company, shall ask of the president and directors in writing a call of a general meeting of the stockholders, such shall be called ; and to such meeting so called, the president and directors shall make a report similar in all respects to the one required to be made at the annual meeting.

Account of
proceedings.

Proceedings in
case of inter-
section with
other roads.

SEC. 19. *Be it further enacted*, That whenever in the construction of said road or any of its branches, it may be necessary to cross or intersect any other established road or way, it shall be the duty of the president and directors, so to construct the plank road across such established roads or ways, as not to impede the passage or transportation of persons or property along the same; and if in the construction of the said plank road or any of its branches, or of any toll-gate or toll-houses, it may become necessary or expedient to use or change any portion of any established road or way, it may be lawful for said president and directors to change such road or way at points where they may deem necessary or expedient to do so, and that entering upon or taking and [any] land necessary therefore, [therefor] they shall be and are hereby authorized to proceed under the provisions of this act as in case of land necessary for the plank road: *Provided further*, That previous to making any such change, the said company shall prepare and make a road equally good with the road proposed to be substituted, [taken;] but nothing herein contained shall be so construed as to make it incumbent on said company to keep in repair the portion of any road which they may have changed as aforesaid.

Duration of
charter.

SEC. 20. *Be it further enacted* That this act shall be in force from and after the ratification thereof, and shall be regarded as a public act, and be continued in force for fifty years.

[Read three times and ratified in General Assembly
this 17th day of December, A. D., 1852.]

CHAPTER CVIII.

AN ACT TO INCORPORATE THE HAYWOOD AND PITTSBORO' PLANK ROAD COMPANY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful to open books in the town of Haywood, under the direction of Robert Faucette, Obadiah Farrar, Elias Avent, James Lassiter and B. J. Howze ; at Pittsboro' under the direction of Dr. Thomas H. Ramsay, Dr. Spence McClanahan, M. Q. Waddell, Joseph Thompson and Woodson Lea, and at such other places as the above commissioners may deem proper, for the purpose of receiving subscriptions to an amount not exceeding twenty thousand dollars, in shares of fifty dollars each, so as to effect a communication between the towns of Haywood and Pittsboro', by means of a plank road ; the route and points of effecting this communication to be determined by the said company after the same shall have been formed.

Books to be opened.

SEC. 2. *Be it further enacted,* That the times and places of receiving such subscriptions shall be advertised in Haywood and Pittsboro' and other public places ; and the books for receiving the same, shall not be closed within ten days after the opening ; and said commissioners shall have power to open books from time to time as they may deem proper, until the whole number of shares be subscribed.

And kept open from time to time.

Corporate title.

Sec. 3. *Be it further enacted*, That when the sum of ten thousand dollars shall be subscribed for, in manner aforesaid, the subscribers, their executors, administrators or assigns shall be, and they are hereby declared to be incorporated into a company by the name and style of "The Haywood and Pittsboro' Plank Road Company;" and by that name shall be capable in law of purchasing, holding, selling, leasing and conveying estates, real, personal and mixed, so far as may be necessary for the purposes of said company, either in constructing said road or in managing the affairs of said company, and shall have perpetual succession; and by said corporate name, may sue and be sued; and may have a common seal which they shall have power to alter and renew at pleasure; and shall have and enjoy, and may exercise all the rights, powers and privileges which other corporate bodies may lawfully do, for the purposes in this act mentioned, and may make all such by-laws, rules and regulations not inconsistent with the laws of this State or of the United States, as shall be necessary for the well ordering and conducting the affairs of said company.

Payments.

SEC. 4. *Be it further enacted*, That upon any subscription of stock as aforesaid, there shall be paid at the time of subscribing to the said commissioners or their agents appointed to receive such subscriptions, the sum of one dollar on every share subscribed, and the residue thereof shall be paid or secured in such manner and at such time or times as may be required by the board of directors of said company.

Disposition of
moneys.

SEC. 5. *Be it further enacted*, That the said commissioners or their agents, shall, forthwith after the first election of a board of directors of the company, pay

over to said board of directors, all moneys received by them, and on failure thereof, the said directors may recover the amount due from them, by legal process in the court of pleas and quarter sessions, or in the superior court of law in any county, wherein such commissioner or commissioners may reside, or by warrant before a justice of the peace for said county.

SEC. 6. *Be it further enacted*, That when ten thousand dollars shall have been subscribed, public notice of that event shall be given by the said commissioners at Haywood, who shall, at the same time, call a general meeting of the stockholders at such convenient place and time as they shall name in said notice.

General meeting.

SEC. 7. *Be it further enacted*, That to constitute such meeting, a number of persons entitled to a majority of all the votes which could be given upon all the shares subscribed shall be present, either in person or by proxy, and if a sufficient number to constitute a majority do not attend on that day, those who attend shall have power to adjourn from time to time until a meeting shall be formed.

How constituted.

SEC. 8. *Be it further enacted*, That the subscribers at their general meeting before directed, and the proprietors of stock at every annual meeting thereafter, shall elect five directors, who shall choose one of their number president, and who shall continue in office, unless sooner removed, until the next annual meeting after their election, and until their successors shall be elected; but the said directors, or any of them, may at any time be removed, and the vacancy thereby occasioned be filled by a majority of votes given at any general meeting. The president, with any two

President and Directors.

or more directors, or in the event of sickness, absence, or disability of the president, any three or more of the directors may appoint one of their number president *pro tem.*, who shall constitute a board for the transaction of business. In cases of vacancy in the board of directors, happening from death, resignation, or otherwise, such vacancy may be supplied by the appointment of the board until the next annual meeting.

Vacancies.

Rights and
privileges.

SEC. 9. *Be it further enacted*, That the board of directors of said company shall be, and they are hereby invested with all the rights and powers necessary for the construction, repairs and maintaining a plank road to be located as aforesaid, with as many branches, or such extension of the main stem as this charter may authorize, and as they or a majority of them may deem necessary: *Provided*, A majority of the stockholders in a called or regular meeting shall concur therein, and also to make and construct all works whatsoever, which may be necessary to the completion of said road, its extension or branches.

Contracts.

SEC. 10. *Be it further enacted*, That the board of directors shall have power to make all contracts with any person or persons on behalf of the company for making the said plank road, its extension or any of its branches, and performing all other things respecting the same, which they shall deem necessary and proper; and to require from the subscribers from time to time, such advances of money on their respective shares as the wants of the company may demand, until the whole of their subscriptions shall be advanced; to call on any emergency a general meeting of the stockholders, giving one month's notice thereof by advertisement in three or more public places; to appoint

such officers as they may deem necessary to transact Officers. the business of the company, taking from them bond and security for the faithful discharge of their several duties, and duly accounting for all monies coming into their hands; to appoint such superintendents, managers and toll gatherers as may be necessary, and generally to transact all the business of the company between the meetings of the stockholders.

SEC. 11. *Be it further enacted,* That if any Delinquent Stockholders. stockholder shall fail to pay the sum required of him by the board of directors within three months after he shall have been notified of the same, it shall and may be lawful for the said board of directors to sell at public auction, and to convey to the purchaser the share or shares of such stockholder so failing or refusing, giving one month's previous notice of the time and place of sale in manner aforesaid, and after retaining the sum due and all the charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner or his legal representative; and if the said sale shall not produce the sum required to be advanced, with all the incidental charges attending the sale, then the board of directors may recover the remainder of the original proprietor, or his assignee or executors or administrators, or either of them by suit in any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county of which he is a resident; and any purchaser of the stock of the company under a sale by order of the board of directors shall be subject to the same rules and regulations as the original proprietors.

SEC. 12. *Be it further enacted,* That if here- Increase of capital stock. after it may be deemed expedient by a majority of the stockholders in any general meeting, to extend the

main stem of said road to Graham, or some other point in the county of Alamance, or to make branches diverging from the main stem, it shall and may be lawful for the board of directors of the said company to increase from time to time the capital stock to an amount not exceeding one hundred thousand dollars, by the addition of as many shares as they may deem necessary, by opening books at such places and in such manner as they may deem necessary and proper; and the subscribers for such additional shares as they may deem necessary and proper; and the subscribers for such additional shares of the capital stock of said company are hereby declared to be thenceforward incorporated into the said company, with all the privileges and advantages, and subject to all the liabilities of the original stockholders.

Lands for the location of road—how to be obtained.

SEC. 13. *Be it further enacted*, That the said board of directors, their officers or agents, may agree with the owners of any land over which the said road, with its extension or any of its branches, is intended to pass for the purchase thereof, and, in case of disagreement, or if the owners shall be *feme covert*, under age, *non compos*, or out of the State, on application to any two justices of the peace of the county where the lands lie, the justices shall issue their warrant to the sheriff of said county to summon eighteen freeholders to meet on the land to be valued, on a day expressed in the said warrant, not less than ten nor more than twenty days thereafter; and the sheriff, on the receipt of the warrant, shall summon the freeholders accordingly, and, when met, shall draw twelve of them, who, after being duly sworn, will impartially value the land in question and consider the damages the owners thereof may sustain, and the inquisition so taken shall

be signed by the jury and countersigned by the sheriff and returned to the clerk of the county court to be recorded, and in all cases the jury is directed to describe the land valued, and such valuation shall be conclusive; and the directors shall pay the same to the owners of the land valued, or his legal representatives, and if neither can be found in the State, or if they refuse to receive the money, then to the clerk of the county court, and, on payment thereof, the said corporation shall be seized in fee of the land as fully and absolutely as if it had been conveyed to them by the owners: *Provided, nevertheless,* That the dwelling-house, kitchen, yard or grave yard of no person shall be invaded or any part thereof appropriated to the use of said corporation without the consent of the owner, and, *Provided also,* That from the assessment of damages made as herein directed, either party may have an appeal to the court of pleas and quarter sessions, or to the superior court, to be prosecuted or tried as appeals from judgments of justices [of] the peace to the county court.

SEC. 14. *Be it further enacted,* That the board of directors, or their agents, may agree with the proprietor or proprietors for any quantity of land they may deem necessary for their purposes, at or near each place or station intended for the collection of tolls for the purpose of erecting the necessary buildings, gates, &c., and, in case of disagreement, or of any disabilities as aforesaid, or the owner or owners being out of the State, the same proceedings may be had and the same conveyances shall follow as are described in the preceding section: *Provided,* That in cases of disagreement not more than five acres of land shall be condemned to the use of the said company at any one station.

Land for toll-houses—how obtained.

Toll.

SEC. 15. *Be it further enacted,* That it may and shall be lawful for the board of directors to demand and receive toll at some convenient toll-gates, to be by them erected, a reasonable toll from all persons using said plank road, or any of its branches, which toll, so to be collected, shall be so regulated that the profits shall not exceed twenty-five per cent. on the capital stock of said company in any one year.

Refusal to pay
toll—proceed-
ings in such
case.

SEC. 16. *Be it further enacted,* That so soon as five miles of the road shall have been constructed, it shall and may be lawful for the board of directors to demand and collect such toll from persons using the road as may be by them determined in accordance with the rules imposed by the above section, and in like proportion for a greater extent of road, and if any person or persons shall refuse to pay the toll at the time of offering to pass the place or places designated for the collection of tolls, and previous to passing the same, the toll-gatherers respectively may refuse a passage to the person or persons refusing to pay; and if any person or persons shall pass or drive through or around said place, any wheeled carriage or animal liable to toll without paying the same, he, she, or they shall be liable to pay a fine of five dollars, which fine may be recovered by a warrant before any justice of the peace of the county wherein such toll gate or point of collection is situated; and if any person or persons shall drive on or use any part of said road or its branches, between the points designated for the collection of tolls, without paying the amounts for which he or they may be liable, it shall be held that he or they are fraudulently using the same, and he, she, or they shall be liable to pay a fine of five dollars for every such offence, which may be recovered by warrant as hereinbefore described.

Penalty.

SEC. 17. *Be it further enacted*, That if any person or persons shall wilfully or maliciously injure, or in any manner hurt, damage or obstruct, or shall wilfully or maliciously cause, aid, assist, counsel or advise any other person or persons to injure, hurt, damage or obstruct the said plank road or any of its branches, their toll-gates or toll-houses, or any of the property or effects of said company, such person or persons so offending shall be liable to indictment therefor, and on conviction shall be imprisoned or fined at the discretion of the court before which said conviction shall take place.

Damage to road, punishable.

SEC. 18. *Be it further enacted*, That distinct accounts of the proceedings and disbursements of the board of directors shall be made by them to the annual meeting of the stockholders: *Provided*, That if a number of stockholders holding one-fourth in amount of the capital stock of said company, shall ask the board, in writing, a call of a general meeting of the stockholders, such meeting shall be called, and to such meeting the board shall make a report similar in all respects to the one required to be made at the annual meetings.

Account of proceedings.

SEC. 19. *Be it further enacted*, That whenever, in the construction of said road or any of its branches, it may be necessary to cross or intersect any established road or way, it shall be the duty of the board so to construct the said plank road or its branches across such established road or way, as not to impede the passage or transportation of persons or property along the same, and if, in the construction of the said plank road, or any of its branches, or toll-gates, or toll-houses, it may become necessary or expedient to

Proceedings in case of intersection with other roads.

use or change any portion of any established public road or way, it may be lawful for said board of directors to change the said road or way at points where they may deem it necessary or expedient to do so; and that for entering upon or taking any land necessary therefor, they shall be authorized to proceed under the provisions of this act as in the case of land necessary for the plank road: *Provided*, That previous to making any such change, the company shall make and prepare a road equally good as the road proposed to be substituted, [taken;] but nothing herein contained shall be so construed as to make it incumbent on said company to keep in repair the portion of said road which they may have changed as aforesaid.

Duration of
charter.

SEC. 20. *Be it further enacted*, That this act shall be in force from and after its ratification, and shall be regarded as a public act, and continue in force for fifty years.

Power not
granted.

SEC. 21. *Be it further enacted*, That the said company shall not have power to prevent an intersection with said road by any plank road which any other person or company may construct from any point on Deep River.

[Read three times and ratified in General Assembly
this 20th day of November, A. D., 1852.]

CHAPTER CIX.

AN ACT TO INCORPORATE THE HAYWOOD AND RALEIGH PLANK ROAD COMPANY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful to open books in the town of Haywood, under the direction of Seth Jones, Elias Bryan, John Boylan, Richardson Faucett, and Brazilla Minns; at such places as may be deemed advisable in the county of Chatham, under the direction of Paschal B. Burt, Alsa Hunter, Green Beckwith, Dr. Richardson, or any two of them; in the county of Wake, under the direction of Robert W. Haywood, John H. Bryan, J. B. G. Roulhac, and Thomas Hogg, or any two of them; and at such other places as the commissioners hereinbefore named to superintend the receiving of subscriptions in the town of Haywood, shall direct, for the purpose of receiving subscriptions to an amount not exceeding one hundred thousand dollars, in shares of fifty dollars each for the purpose of effecting a communication between the towns of Haywood and Raleigh, by means of a plank road; the route and points of effecting this communication to be determined by the said company after the same shall have been formed.

SEC. 2. *Be it further enacted,* That the time and places of receiving such subscriptions shall be advertised in one or more of the papers published and printed in Raleigh or Fayetteville, and the books for receiving the same shall not be closed within ten days

Books to be
opened.

Books to be
kept open from
time to time.

after the opening; and said commissioners shall have power to open books from time to time as they think proper, until the whole number of shares be subscribed.

Corporate title.

SEC. 3. *Be it further enacted*, That when the sum of twenty thousand dollars shall be subscribed for in manner aforesaid, the subscribers, their executors, administrators, or assigns, shall be and they are hereby declared to be incorporated into a company by the name and style of the Haywood and Raleigh Plank Road Company, and by that name shall be capable in law of purchasing, holding, selling, leasing, and conveying estates, real, personal, and mixed, so far as may be necessary for the purposes of said company, either in constructing said road or managing the affairs of said company, and shall have perpetual succession; and by said corporate name may sue and be sued, and may have a common seal, which they shall have the power to alter and renew at pleasure, and shall have and enjoy, and may exercise, all the rights, and powers, and privileges, which other corporate bodies may lawfully do, for the purposes mentioned in this act, and may make all such by-laws, rules, and regulations, not inconsistent with the laws of this State or of the United States, as shall be necessary for the well ordering and conducting the affairs of said company.

Payments.

SEC. 4. *Be it further enacted*, That upon any subscriptions of stock as aforesaid, there shall be paid at the time of subscribing, to the commissioners or their agents appointed to receive such subscriptions, the sum of one dollar on every share subscribed, and the residue thereof shall be paid or secured in such manner and at such time or times as may be required by the board of directors of said company.

SEC. 5. *Be it further enacted,* That the said commissioners or their agents shall, forthwith after the first election of a board of directors of the company, pay over to said directors all the moneys received by them; and on failure thereof, the said directors may recover the amount due from them by legal process in the court of pleas and quarter sessions, or in the superior court of law in any county wherein such commissioners may reside, or by warrant before any justice of the peace for said county.

Disposition of
moneys.

SEC. 6. *Be it further enacted,* That when twenty thousand dollars shall have been subscribed, public notice of that event shall be given by the said commissioners at Haywood, who shall at the same time call a general meeting of the stockholders at such convenient place and time as they shall name in said notice.

General meet-
ing.

SEC. 7. *Be it further enacted,* That to constitute any such meeting, a number of persons entitled to a majority of all the votes which could be given upon all the shares subscribed, shall be present either in person or by proxy, and if a sufficient number to constitute a meeting do not attend on that day, those who attend shall have power to adjourn from time to time until a meeting shall be formed.

How constitu-
ted.

SEC. 8. *Be it further enacted,* That the subscribers, at their general meeting before directed, and the proprietors of stock at every annual meeting thereafter, shall elect nine directors, and the directors, when appointed, shall choose one of their number president, who shall continue in office, unless sooner removed, until the next annual meeting after their

President and
Directors.

election, and until their successors shall be elected, but the said directors, or any of them, may be removed at any time, and the vacancy thereby occasioned be filled by a majority of votes given at any general meeting. The president, with any two or more directors, or in the event of sickness, absence, or disability of the president, any five or more of the directors may appoint one of their number president *pro tem.*, who shall constitute [a board] for the transaction of business. In cases of vacancy in the board of directors, happening from death, resignation, or otherwise, such vacancy may be supplied by the appointment of the board until the next annual meeting.

Vacancies.

Rights and powers.

SEC. 9. *Be it further enacted*, That the board of directors of said company shall be, and they are hereby invested with all the rights and powers necessary for the construction, repairs and maintaining of a plank road, to be located as aforesaid, with as many branches diverging from the main stem as they or a majority of them may deem necessary, and may cause to be made; also to make and construct all works whatsoever, which may be necessary to the completion of said road and all its branches.

Contracts.

SEC. 10. *Be it further enacted*, That the said board of directors shall have power to make contracts with any person or persons on behalf of the company for making the said plank road, together with any branches of the same, and performing all other things respecting the same which they shall judge necessary and proper; and to require from the subscribers from time to time, such advances of money on their respective shares as the wants of the company may demand until the whole of their subscriptions shall be advanc-

ed ; to call in any emergency a general meeting of the stockholders, giving one month's notice thereof in one or more of the newspapers printed in the city of Raleigh or town of Fayetteville ; to appoint such officers Officers. as they may deem necessary to transact the business of the company, taking from them bond and security for the faithful discharge of their several duties, and duly accounting for all moneys coming into their hands ; to appoint such superintendents, managers and toll-gatherers as may be necessary, and generally to transact all the business of the company between the general meetings of the stockholders.

SEC. 11. *Be it further enacted*, That if any stockholder shall fail to pay the sum required of him by the board of directors or by a majority of them, within one month after the time the same shall have been advertised in one or more of the newspapers published in the town of Raleigh or Fayetteville, it shall and may be lawful for said board of directors or a majority of them to sell at public auction, and to convey to the purchaser the share or shares of such stockholder so failing or refusing ; giving one month's previous notice of the time and place of sale in manner aforesaid, and after retaining the same [sum] due and all the charges of the sale out of the proceeds thereof to pay the surplus over to the former owner or his legal representatives ; and if the said sale shall not produce the sum required to be advanced with all incidental charges attending the sale, then the said board of directors may receive the balance of the original proprietor or his assignee, or the executors or administrators or either of them by suit in any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county of which he is a resident ; and Delinquent
Stockholders.

any purchaser of the stock of the company under the sale by order of the board of directors shall be subject to the same rules and regulations as the original proprietors.

Lands for location of road—
how obtained.

SEC. 12. *Be it further enacted*, That the said board of directors, their officers or agents, may agree with the owners of any land over which the said road or any of its branches is intended to pass, for the purchase thereof, and, in case of disagreement, or if the owners shall be *feme covert*, under age, *non compos*, or out of the State, on application to any two justices of the peace of the county where the lands lie, the justices shall issue their warrant to the sheriff of said county to summon eighteen freeholders to meet on the land to be valued, on a day expressed in the said warrant, not less than ten nor more than twenty days thereafter, and the sheriff, on the receipt of the warrant, shall summon the freeholders accordingly, and, when met, shall draw twelve of them, who, after being duly sworn, will impartially value the land in question and consider the damages the owner thereof may sustain, and the inquisition so taken shall be signed by the jury and countersigned by the sheriff, and returned to the clerk of the county court to be recorded, and in all cases the jury is hereby directed to describe the land valued, and such valuation shall be conclusive; and the said directors shall pay the sum to the owners of the land valued, or his legal representative, and, if neither can be found in this State, or if they refuse to receive the money, then to the clerk of the county court, and, on payment thereof, the said corporation shall be seized in fee of the land as fully and absolutely as if it had been conveyed to them by the owners: *Provided*, That no land which lies within the

yard or grave yard of any person shall be condemned to the use of said road without the owner's consent, and where either party are dissatisfied with any amount of damages assessed in any case, an appeal may be taken to the superior court of the county where the land lies.

SEC. 13. *Be it further enacted*, That the said board of directors, or their agents, may agree with the proprietor or proprietors for any quantity of land they may deem necessary for their purposes, at or near each place or station intended for the collection of tolls, for the purpose of erecting the necessary buildings, gates, &c.; and, in case of disagreement, or if [of] any disability as aforesaid, or the owner or owners being out of the State, the same proceedings may be had and the same conveyances shall follow as are described in the preceding section: *Provided*, That in case of disagreement, not more than two acres of land shall be condemned to the use of said company at any one station.

Lands for toll-houses, &c.—how to be obtained.

SEC. 14. *Be it further enacted*, That it shall and may be lawful for the said board of directors to demand and receive, at some convenient toll-gates, to be by them erected, a reasonable toll from all persons using said plank road, which toll, so to be collected, shall be so regulated that the profits shall not exceed twenty-five per cent. on the capital stock of said company in any one year.

Toll.

SEC. 15. *Be it further enacted*, That the road hereby authorized to be made shall not be less than eight nor more than sixty feet wide, and that as soon as five miles in extent shall have been constructed, it shall and

Width of road.

may be lawful for the said board of directors to demand and collect such toll from persons using said road as may be by them determined, in accordance with the rates imposed by the fourteenth section of this act, and in like proportions for a greater extent of road, and if any person or persons shall refuse to pay the toll at the time of offering to pass the place or places designated for the collection of tolls and previous to passing the same, the toll-gatherers respectively may refuse a passage to the person or person refusing to pay ; and if any person or persons shall pass or drive through, or pass or drive around said place any wheeled carriage or animal liable to toll without paying the same, he or they shall be liable to pay a fine of five dollars, which fine may be recovered by warrant before any justice of the peace of the county wherein such toll-gate or point of collection is situated, and if any person or persons shall drive or use any part of said road between the points designated for the collection of tolls, without paying the amount for which he or they may be liable, it shall be held that he or they are fraudulently using the same, and he, she or they shall be liable to pay a fine of five dollars, which may be recovered by warrant as hereinbefore prescribed.

Damage to
road, &c., pun-
ishable.

SEC. 16. *Be it further enacted*, That if any person or persons shall wilfully or maliciously injure, or in any manner hurt, damage or obstruct, or shall wilfully or maliciously cause, aid or assist, counsel or advise any other person or persons to injure, hurt, damage or obstruct the said plank road, toll-gate, toll-houses, or any of the property or effects of the company, such person or persons so offending shall be liable to be indicted therefor, and on conviction shall be imprisoned or fined at the discretion of the court before which said conviction shall take place.

SEC. 17. *Be it further enacted*, That distinct accounts of the proceedings and disbursements of the board shall be made by them to the annual meeting of the stockholders: *Provided*, That if the number of stockholders having one-fourth in amount of the capital stock of said company, shall ask of the board in writing a call of a general meeting of the stockholders, such meeting shall be called, and to such meeting the board shall make a report similar in all respects to the one required to be made at the annual meeting.

Account of
proceedings.

SEC. 18. *Be it further enacted*, That whenever in the construction of said road, it may be necessary to cross or intersect any established road or way, it shall be the duty of the board of directors so to construct the said plank road across such established road or ways as not to impede the passage or transportation of persons or property along the same, and if [in] the construction of said plank road or any of its branches, or of any toll-gate or toll-houses it may become necessary or expedient to use or change any portion of any established road or way, it may be lawful for said board of directors to change the said road at points where they may deem it necessary or expedient to do so, and that for entering upon or taking any land that is necessary therefor, they shall be and are hereby authorized to proceed under the provisions of this act, as in the case of land necessary for the plank road: *Provided, further*, That previous to making any such change the said company shall make and prepare a road equally good with the road proposed to be substituted, but nothing herein contained shall be so construed as to make it incumbent on said company to keep in repair the portions of any road which they may have changed as aforesaid.

Proceedings in
case of inter-
section with
other roads.

Duration of
charter.

SEC. 19. *Be it further enacted*, That this act shall be in force from and after the ratification thereof, and shall be regarded as a public act and be continued in force for fifty years.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

CHAPTER CX.

AN ACT TO INCORPORATE THE JACKSONVILLE AND TRENT RIVER PLANK ROAD COMPANY IN THE COUNTIES OF ONSLOW AND JONES.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful to open books in the town of Jacksonville, in the county of Onslow, under the direction of George S. Ward, Dr. Edward W. Ward, Col. Edward W. Montfort, Myers Pelitiers, Dr. John Cook, or any two of them, for the purpose of receiving subscriptions to an amount not exceeding fifty thousand dollars, in shares of fifty dollars each, for the purpose of effecting a communication between the town of Jacksonville and Trent River, at some point to be designated by the stockholders after the company shall have been formed. Books to be opened.

SEC. 2. *Be it further enacted,* That the time and places of receiving such subscriptions shall be advertised in one or more of the papers published and printed in the towns of Wilmington and Newbern, and the books for receiving the same shall not be closed within ten days after the opening, and said commissioners are hereby authorized to open books from time to time as they may think proper, until the whole number of shares be subscribed. Advertisement of times and places.

SEC. 3. *Be it further enacted,* That when the sum of ten thousand dollars shall be subscribed for in manner aforesaid, the subscribers, their executors, ad- Corporate title.

ministrators or assigns, shall be and they are hereby declared to be incorporated into a company by the name and style of "The Jacksonville Plank Road Company," and by that name shall be capable in law of purchasing, holding, selling, leasing and conveying estates, real and, personal, so far as may be necessary for the purposes of said company, either in constructing said road or in managing the affairs of said company, and shall have perpetual succession and by said corporate name may sue and be sued, and may have a common seal, which they shall have power to alter and renew at pleasure, and shall have and enjoy and may exercise all the powers, rights and privileges which other corporate bodies may lawfully do for the purposes mentioned in this act, and may make all such by-laws, rules and regulations not inconsistent with the laws of this State, or of the United States, as shall be ne necessary for the well ordering and conducting the affairs of said company.

Payments.

SEC. 4. *Be it further enacted*, That upon any subscription of stock as aforesaid there shall be paid at the time of subscribing to the said commissioners, or their agents, appointed to receive such subscriptions, the sum of one dollar on every share subscribed, and the residue thereof shall be paid or secured in such manner and at such times as may be required by the board of directors of said company.

Moneys.

SEC. 5. *Be it further enacted*, That the said commissioners or their agents shall forthwith after the first election of a board of directors of the company, pay over to said directors all moneys received by them, and on failure thereof the said directors may in the name of said company recover the amount due from

said commissioners by warrant before a magistrate or in any court of the county of Onslow having jurisdiction thereof.

SEC. 6. *Be it further enacted,* That when ten thousand dollars shall have been subscribed, public notice of that event shall be given by the said commissioners at Jacksonville, who shall at the same time call a general meeting of the stockholders at such convenient place and time as they shall name in said notice. General meeting.

SEC. 7. *Be it further enacted* That to constitute such meeting, a majority of the stockholders shall be present either in person or by proxy; and if a sufficient number to constitute a meeting do not attend on that day, those who do attend shall have the power to adjourn from time to time until a meeting shall be formed. How constituted.

SEC. 8. *Be it further enacted,* That the subscribers at such general meeting and at every annual meeting thereafter, shall elect a president and eight directors, who shall continue in office until the next annual meeting of the stockholders as aforesaid, and until their successors shall be elected: the president with any three or more directors, or in the absence of the president four or more directors, one of whom is the appointee of the president, as is hereafter provided, shall constitute a board for the transacting the general business of the company: the president shall and may designate and appoint in writing any one of the directors to act as president (*pro tem.*) during his absence; and such appointee of the president shall have all the rights and powers of the president during the absence of the president: in case of a vacancy in the board of President and Directors.

directors, happening from death, resignation or otherwise, such vacancy may be supplied by appointment by the board of any of the stockholders, who shall act as a director until the next annual meeting of the stockholders.

Rights and
powers.

SEC. 9. *Be it further enacted*, That the said company shall be, and they are hereby invested with all the rights and powers necessary for the construction, repairs and maintenance of a plank road to be located as aforesaid, with such branches diverging from the main stem as the stockholders in general meeting may authorize and cause to be made, and also to make and construct all works whatsoever which may be necessary to the completion of said road and all its branches.

Contracts.

SEC. 10. *Be it further enacted*, That the said board of directors shall have power to make contracts with any person or persons on behalf of the company for making the said plank road, together with any branches of the same, and performing all other things respecting the same which they shall deem necessary and proper; and to require from the subscribers from time to time, such instalments on their stock as they may deem necessary for the purposes of the company, until the whole of their subscriptions shall be paid; to call on any emergency a general meeting of the stockholders, giving one month's notice thereof in some one of the newspapers in Wilmington or Newbern; to appoint such officers as they may deem necessary to transact the business of the company, taking from them bond and sufficient security for the faithful discharge of their several duties, and duly accounting for all moneys coming into their hands; and generally to trans-

Officers.

act all the business of the company between the general meetings of the stockholders.

SEC. 11. *Be it further enacted,* That if any Delinquent stockholders. stockholder shall fail to pay the sum required of him by the board of directors, or by a majority of them, within one month after the time the same shall have been advertised in one or more of the newspapers published in the towns of Wilmington and Newbern, it shall and may be lawful for said board of directors, or a majority of them, (having first notified in writing such defaulting stockholders of their intention so to do,) to sell at public auction and convey to the purchaser the share or shares of such stockholder so failing or refusing, giving one month's previous notice of the time and place of sale in manner aforesaid, and after retaining the sum due and all the charges of the sale out of the proceeds thereof, to pay the surplus over to such stockholder or to his legal representative, and if the said sale shall not produce the sum required, with all incidental charges attending such sale, then the said board of directors may recover the balance of the original proprietor or his assignee, or the executor or administrators, or either of them, by suit in any court of record having jurisdiction thereof, or by warrant before any magistrate of the county of which he is a resident, and any purchaser of the stock of the company under sale by order of the board of directors shall be subject to the same rules and regulations as the original proprietors.

SEC. 12. *Be it further enacted,* That said com- Purchase of road-way. pany, by their officers or agents, may agree with the owners of any land over which said road or any of its branches is intended to pass, for the purchase of a

road-way, and also for the purchase of suitable locations for their toll-houses, toll-gates, and other necessary buildings; the land for such road not to exceed sixty feet in width, and the land necessary for sites for their buildings or erections as aforesaid, not to exceed two acres in any one parcel, avoiding in all cases the encroaching or intruding on enclosed lands, kitchens, gardens, grave yards, without the free consent of the owners of such land, or if the owner or owners be *feme covert, non compos*, under age, or out of the State, said company, by their officers or agents, may apply to any two justices of the peace of the county of Onslow, who shall thereupon issue their warrant to the sheriff of said county to summon eighteen disinterested freeholders to meet on the land to be valued, on a day to be expressed in such warrant, which shall be within twenty and not less than ten days from the issuing thereof, and the sheriff, upon the receipt of any such warrant, shall summon such freeholders accordingly, and when met he shall by lot draw twelve of them, who, after being duly sworn, shall impartially estimate the value of so much of said land as may be required for the road-way, or for the site for any building or erection to be, and contain the maximum quantity of land which said company is, by previous provisions of this section, authorized to acquire by purchase upon agreement with the owner or owners, and after said jury has duly considered the damages sustained by the owners of said land, and assessed the same, the sheriff shall cause the said inquisition to be reduced to writing, and signed by the jury, and countersigned by himself, and returned to the clerk of the county court to be recorded: *Provided, nevertheless,* That either party considering themselves aggrieved, shall have the right of appeal to the superior court of Onslow county.

SEC. 13. *Be it further enacted*, That it shall and Toll.
may be lawful for the said board of directors to demand and receive, at some convenient toll-gates to be by them erected, a reasonable toll from all persons using said plank road or any of its branches.

SEC. 14. *Be it further enacted*, That the road Width of road.
hereby authorized to be made, shall not be less than eight nor more than thirty feet wide, and that as soon as five miles in extent shall have been constructed, it shall and may be lawful for the said board of directors to demand and collect such tolls from persons using said road as may be by them determined in accordance with the rates imposed by the thirteenth section of this act, and in like proportion for a greater extent of road; and if any person or persons shall forcibly or fraudulently pass any toll-gate thereon, without having paid the legal toll there due, or without the consent of the collector of toll at such gate, or if any person or persons, to avoid paying toll, shall, with his team, carriage, or cart, or any other vehicle to them attached, or with his horse or horses, or other beasts, turn out of said road before reaching any toll-gate thereon, or if any person or persons shall fraudulently use said road between any of the places where tolls are collected thereon, or any portion or part of said road, without paying the toll due for the portion of said road so used by him, every such person or persons violating any one or more of the provisions of this section, shall severally, if a white man or a free person of color, pay a fine of five dollars, to be recovered in the name and for the use of said company, by warrant before any justice of the peace for the county of Onslow or Jones, and if a slave, shall receive such punishment by whipping as shall be adjudged by any

magistrate of said counties, under a warrant to be issued in the name of said company against such slave : *Provided, however,* That such whipping shall in no case exceed twenty lashes.

Damage to
road made
punishable.

SEC. 15. *Be it further enacted,* That if any person or persons shall wilfully or maliciously injure or in any manner damage or obstruct, or shall wilfully or maliciously cause, aid, assist, counsel or advise any other person or persons to injure, damage or obstruct said plank road, toll-gates or toll-houses, or any of the property or effects of said company, such person or persons so offending, shall be liable to be indicted therefor, and on conviction shall be imprisoned or fined at the discretion of the court before which said conviction shall take place.

Account of
proceedings.

SEC. 16. *Be it further enacted,* That distinct accounts of the proceedings and disbursements of the board shall be made by them to the annual meeting of the stockholders : *Provided,* That if a number of stockholders, holding one-fourth in amount of the capital stock of said company shall ask of the board in writing a call of a general meeting of the stockholders, such meeting shall be called, and to such meeting the board shall make a report similar in all respects to the one required to be made at the regular annual meetings.

Intersection
with other
roads—pro-
ceedings in
such case.

SEC. 17. *Be it further enacted,* That whenever in the construction of said road it may be necessary to cross or intersect any established road or way, it shall be the duty of the board of directors so to construct the said plank road across such established road or way as not to impede the passage or transportation of persons or property along the same, and if in the construc-

tion of said plank road or any of its branches, or of any toll-gate or toll-house it may become necessary or expedient to use or change any portion of any established public road or way, it may be lawful for said board of directors to change the said roads at points where they may deem it necessary or expedient to do so, and that for entering upon or taking any land necessary therefor, they shall be and are hereby authorised to proceed under the provisions of this act as in case of land necessary for the plank road: *Provided, further,* That previous to making any such change, the said company shall make and prepare a road equally good with the road proposed to be used by them, but nothing herein contained shall be so construed as to make it incumbent on said company to keep in repair the portion of any road which they may have changed as aforesaid.

SEC. 18. *And be it further enacted,* That this act shall be in force from and after the ratification thereof, and shall be regarded as a public act, and be continued in force for fifty years.

Duration of
charter.

[Read three times and ratified in General Assembly,
this 27th day of [December,] A. D., 1852.]

CHAPTER CXI.

**AN ACT TO INCORPORATE THE KINGSBURY AND
LOCKSVILLE PLANK ROAD COMPANY.**

Corporate title.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Henry Elliott, Nathan King, Dr. John W. McRay, Major Neill McLane, Alexander McDugald, Elbert Partridge, James Avent, Elias Bryant, and A. Jones, together with such persons as now are or may hereafter be associated with them, their successors or assigns, be, and they are hereby created a corporation and body politic, by the name and style of the "Kingsbury and Locksville Plank Road Company" and by that name and style may acquire, hold, possess and transfer such real, personal and mixed estates so far as may be necessary for the purpose of constructing the road herein authorized to be made, or of managing the affairs of the company, and shall have perpetual succession and a common seal, which they shall have power to alter and renew at pleasure; and shall have and enjoy and may exercise all the powers, rights and privileges, which other corporate bodies may lawfully do, for the purposes mentioned in this act; and may make all such by-laws, rules and regulations, not inconsistent with the laws of this State or of the United States, as shall be necessary for the well ordering and conducting the affairs of the company; and by said name may sue and be sued, plead and be impleaded in any courts of this State.*

SEC. 2. *Be it further enacted,* That the capital Capital Stock.
 stock of the said company shall not exceed the sum of one hundred thousand dollars, in shares of fifty dollars each; the payment or securing of the stock of the company to be made under such rules and regulations as may be prescribed by the board of directors hereinafter provided for. The said company shall have power to construct a plank road from Kingsbury in the county of Cumberland to A. Jones' Mills in the county of Chatham.

SEC. 3. *Be it further enacted,* That a general General meeting.
 meeting of the stockholders of said company, shall be called at such time and place as may be deemed convenient for the same, by giving public notice in one or more newspapers published in the county of Cumberland, giving at least ten days' notice of the time and place of such meeting; that to constitute any such meeting, a number of shares entitled to a majority of votes which could be given upon all the shares subscribed, shall be present, either in person or by proxy; and if a sufficient number to constitute a meeting do not attend on that day those who do attend shall have the power to adjourn from time to time until a meeting shall be formed.

SEC. 4. *Be it further enacted,* That the sub- President and Directors.
 scribers to the stock of the said company, at their meeting hereinbefore directed to be called, and the proprietors of stock at every annual meeting thereafter, shall elect seven directors; and the directors, when appointed, shall choose one of their number president, who shall continue in office (unless sooner removed) until the next annual meeting after their election and until their successors shall be elected; but the said directors

or any of them, may at any time be removed, and the vacancy thereby occasioned, be filled by a majority of the votes given at any general meeting; the president with any three or more directors, or in the event of sickness, absence or disability of the president, any four or more of the directors, who may appoint one of their own body president, *pro tem.* shall constitute a board for the transaction of business. In cases of vacancy in the board of directors happening from death, resignation or otherwise, such vacancy may be supplied by the appointment of the board until the next annual meeting.

Rights and powers.

SEC. 5. *Be it further enacted,* That the board of directors of said company shall be, and they are hereby invested with all the rights and powers necessary for the construction and repairs of the plank road herein authorized to be made, and also to make, purchase and construct all such mills and other works as may be necessary for the construction and well ordering of the said road.

Contracts.

SEC. 6. *Be it further enacted,* That the said board of directors shall have power to make contracts with any person or persons on behalf of the company for the construction of the said road, and of performing all other things necessary and proper, and to require from the stockholders from time to time, such advances of money on their respective shares as the wants of the company may demand, until the whole of their subscription shall be paid; to call on any emergency a general meeting of the stockholders, giving at least twenty days' notice thereof in one or more newspapers published in the town of Fayetteville; to appoint such officers as they may deem necessary to

transact the business of the company, taking from Officers. them at their discretion, bond and security for the faithful discharge of their several duties and duly accounting for all moneys coming into their hands; to appoint such superintendents, managers and toll gatherers as may be necessary and generally to transact all the business of the company between the general meetings of the stockholders.

SEC. 7. *Be it further enacted,* That if any stockholder shall fail to pay the sum required of him by the board of directors, it shall and may be lawful for the said board of directors to sell at public auction and to convey to the purchaser the share or shares of such stockholders so failing or refusing to pay, giving twenty days previous notice of the time and place of sale as aforesaid, and, after retaining the sum due and all the charges of the sale out of the proceeds thereof, to pay the surplus, if any, over to the former owner, or his legal representatives; and if the said sale shall not produce the sum required to be advanced, with all the incidental charges attending the sale, then the said *[then the said]* board of directors may recover the balance of the original proprietor, or his assignee, or of the executor or administrator of either of them, by suit in any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county of which he or they are residents; and any purchaser of the stock of the company, under a sale by order of the board of directors, shall be subject to the same rules and regulations as the original proprietor.

Delinquent
Stockholders.

Lands for the location of road—how to be obtained.

SEC. 8. *Be it further enacted*, That the board of directors, their officers or agents, may agree with the owners of any lands over which the said road is intended to pass for the purchase and transfer thereof, and, in case of disagreement, or if the owners shall be *feme covert*, under age, or *non compos mentis*, or out of the State, on application to any two justices of the peace of the county where the lands lie, the justices shall issue their warrant to the sheriff of the county to summon eighteen freeholders to meet on the land to be valued on the day expressed in said warrant, not less than ten nor more than twenty days thereafter, and the sheriff, on the receipt of the warrant, shall summon the freeholders accordingly, and, when met, shall draw twelve of their number to form a jury, who, after having been duly sworn, shall impartially value the land in question and consider the damages (if any) the owners thereof may sustain, and the inquisition so taken shall be signed by the jury and countersigned by the sheriff and returned to the clerk of the county court to be recorded, and in all cases the jury is hereby directed to describe the land valued, and if either party is dissatisfied with said valuation, they may appeal to the county or superior courts in the way now provided, for all appeals from judgments of justices of the peace; and the board of directors shall pay the sum to the owner, or his legal representatives, and if neither can be found in this State, or if they refuse to receive the money, then to the clerk of the county court of the county wherein said land is situated, and, on the payment thereof, the said corporation shall be seized in fee of the land as fully and absolutely as if it had been conveyed to them by the owner: *Provided*, That no portion of any dwelling-house, yard, kitchen, garden or burial ground shall be condemned to the use of said company without the owner's consent.

SEC. 9. *Be it further enacted*, That said board of directors, or their agents, may agree with the proprietor or proprietors for any quantity of land they may deem necessary for their purposes, at or near each station or place intended for the collection of tolls for the purpose of erecting the necessary buildings, gates, &c., intended for the purposes of the company; and, in case of disagreement or any disability as aforesaid, the same proceedings may be had and the same conveyances shall follow as are prescribed in the preceding section: *Provided*, That, in case of disagreement, not more than *two* acres of land shall be condemned to the use of the company at any one station.

Land for toll-houses—how obtained.

SEC. 10. *Be it further enacted*, That it shall and may be lawful for the said board of directors, as soon as five miles are completed, to demand and receive at some convenient toll-gate or gates to be by them erected, a reasonable toll from all persons using the said plank road, or any part thereof, between said gates, the said road to be made not less than eight nor more than sixty feet wide.

Toll.

SEC. 11. *Be it further enacted*, That if any person or persons shall refuse to pay the toll at the time of offering to pass the place or places designated for the collection of tolls, and previous to passing the same, the toll-gatherers respectively may refuse a passage to the person or persons refusing to pay, and if any person or persons shall forcibly or fraudulently pass any gate thereon without having paid the legal toll, and any person or persons who, to avoid paying the legal toll, shall, with his team, carriage or horse, or any other animal liable to toll, turn out of said road on ground adjacent thereto and enter again upon the said

Refusal to pay toll—proceedings in such case.

road, and any person or persons who shall use the said road between the points designated for the collection of tolls without paying for the same, he, she or they shall pay a fine of five dollars, to be recovered by warrant before any justice of the peace in the county wherein such toll-gate or point of collection shall be situated.

Injury to road
punishable.

SEC. 12. *Be it further enacted*, That if any person or persons shall wilfully or maliciously injure, or in any manner damage or obstruct, or shall wilfully or maliciously cause or advise any other person or persons to injure, obstruct or damage the said plank road, toll-gate or toll-house, bridge or any other property or effects of the said company, such person or persons so offending shall be liable to be indicted therefor, and on conviction, shall be fined or imprisoned at the discretion of the court before which such conviction shall take place, and shall further be liable to the company for any damages that may be sustained on account of such injury.

Account of
proceedings.

SEC. 13. *Be it further enacted*, That distinct accounts of the proceedings and disbursements of the board of directors shall be made by them to the annual meetings of the stockholders.

Proceedings in
case of inter-
section with
other roads.

SEC. 14. *Be it further enacted*, That whenever in the construction of the said road it may be necessary to cross or intersect any established road or way, it shall be the duty of the board of directors so to construct the said plank road across the said established roads or ways as not to impede the passage or transportation of persons or property along the same; and if in the construction of the said plank road, or any

toll gate or toll-house, it may become necessary or expedient to use or change any portion of any established road or way, it may be lawful for the president and directors to change the said road or way at points where they may deem it necessary or expedient to do so; and for entering upon or taking any land therefor, they shall be, and they are hereby authorized to proceed under the provisions of this act, as in case of land necessary for the plank road: *Provided further*, That previous to any such change, the said company shall make and prepare a road equally good as the one proposed to be substituted [taken]; but nothing herein contained shall be so construed as to make it incumbent on said company to keep in repair the portion of the road which they may change as aforesaid.

SEC. 15. *Be it further enacted*, That as soon as the sum of ten thousand dollars is subscribed, the persons named in the first section or a majority of them shall call a general meeting of the stockholders at such time and place as they shall think proper, to organize the said company, by the election of directors as is provided for in this act; and the directors so elected, shall have power to commence the said road, and to construct the same as a majority of them may think best for the said company; and the said directors shall not declare a greater dividend than twenty-five per cent. in any one year on the profits of their road.

Organization
of company.

SEC. 16. *Be it further enacted*, That this act shall be in force from and after its ratification, and shall be regarded as a public act and shall continue in force for thirty years.

Duration of
charter.

[Read three times and ratified in General Assembly
this 27th day of December, A. D., 1852.]

CHAPTER CXII.

AN ACT TO INCORPORATE THE KINSTON AND SNOW HILL PLANK ROAD COMPANY.

Books to be
opened.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful to open books in the town of Kinston, under the direction of Thomas Woody, William C. Lofton, Franklin Dibble, Moses Patterson, Joseph G. Herring, Richard W. King, John C. Washington, Walter Dunn and Nicholas R. Hunter; and in the town of Snow Hill under the direction of Henry Harper, Joshua Rouse and Aquilla Suggs, and at such other places and under the direction of such other persons as the commissioners hereinbefore named to superintend the receiving of subscriptions in the town of Kinston, shall direct for the purpose of receiving subscriptions to an amount not exceeding forty thousand dollars, in shares of fifty dollars each for the purpose of effecting a communication by means of a plank road from the town of Kinston to the town of Snow Hill, by the most practicable route to be determined by the said company after the same shall have been formed.

Books to be
kept open from
time to time.

SEC. 2. *Be it further enacted,* That the times and places for receiving subscriptions shall be advertised in one or more newspapers printed in the town [s] of Goldsboro' and Newbern, and the books for receiving the same shall not be closed in less than thirty days, and the said commissioners shall have power to open the books from time to time as they may think proper until the whole number of shares be subscribed.

SEC. 3. *Be it further enacted*, That when the Corporate title.
sum of five thousand dollars shall be subscribed for in
manner aforesaid, the subscribers, their executors, ad-
ministrators or assigns shall be and they are hereby
declared to be incorporated into a company by the
name and style of the Kinston and Snow Hill Plank
Road Company, and by that name shall be capable in
law of purchasing, holding, selling, leasing and convey-
ing estates, real and personal and mixed, so far as shall
be necessary for the purposes of said company, and
shall have perpetual succession, and by the said
corporate name may sue and be sued, and may
have a common seal, which they shall have power to
alter and renew at pleasure, and shall have and enjoy
and may exercise all the powers, rights and privileges
which other corporate bodies may lawfully do for the
purposes mentioned in this act, and may make all such
by-laws, rules and regulations not inconsistent with
the laws of this State or of the United States, as shall
be necessary for the well ordering and conducting the
affairs of said company.

SEC. 4. *Be it further enacted*, That upon any Payments.
subscription of stock as aforesaid, there shall be paid
at the time of subscribing to the said commissioners or
their agents appointed to receive such subscriptions,
the sum of one dollar on every share subscribed, and
the residue thereof shall be paid in such instalments,
and at such times as may be required by the president
and directors of said company.

SEC. 5. *Be it further enacted*, That the said com- Disposition of
moneys.
missioners or their agents shall further after the first
election of president and directors of the company, pay
over to the said president and directors all moneys re-

ceived by them, and on failure thereof, the said president and directors may recover the amount due from them, or from any one or more of them, by legal process in the court of pleas and quarter sessions, or in the superior court of law in any county wherein such commissioner or commissioners, their executors or administrators may reside, or by warrant before a justice of the peace for said county.

General meeting.

SEC. 6. *Be it further enacted*, That when five thousand dollars shall have been subscribed, public notice of that event shall be given by the said commissioners at Kinston, who shall have power at the same time to call a general meeting of the stockholders at such convenient place and time as they shall name in said notice.

How constituted.

SEC. 7. *Be it further enacted*, That to constitute any such meeting, a number of persons entitled to a majority of all the votes which could be given upon all the shares subscribed shall be present either in person or by proxy, and if a sufficient number to constitute a meeting do not attend on that day, those who attend shall have the power to adjourn from time to time until a meeting shall be formed.

President and Directors.

SEC. 8. *Be it further enacted*, That the subscribers at their general meeting before directed, and the proprietors of stock at every annual meeting thereafter, shall elect a president and five directors, who shall continue in office unless sooner removed, until the next annual meeting after their election, and until their successors shall be elected; but the said president and directors, or any of them may at any time be removed, and the vacancy thereby occasioned be filled by a ma

majority of the votes given at any general meeting, the president with any three or more of the directors, or in the event of the sickness or absence, or disability of the president, any three or more of the directors, may appoint one of their own body president *pro tem*, shall constitute a board for the further transaction of business. In cases of vacancy in the office of president or any director, happening from death, resignation or otherwise, such vacancy may be supplied by the appointment of the board until the next annual meeting. Vacancies.

SEC. 9. *Be it further enacted*, That the president and directors of said company shall be and they are hereby invested with all the rights and powers necessary for the construction, repairs and maintaining of a plank road to be located as aforesaid, with as many branches diverging from the main stem as they, or a majority of them, may deem necessary and may cause to be made, and also to make and construct all works whatsoever, which may be necessary and expedient in order to the proper completion of the said road and all its branches. Rights and privileges.

SEC. 10. *Be it further enacted*, That the said president and directors shall have power to make contracts with any person or persons on behalf of the company, for making the said plank road, together with any branches of the same, and performing all other things respecting the same which they shall judge necessary and proper, and to require from the subscribers from time to time such advances of money on their respective shares as the wants of the company may demand, until the whole of their subscriptions shall be advanced; to call on any emergency a general meeting of the stockholders, giving one month's Contracts.

Officers.

notice thereof in one of the newspapers printed in each of the towns of Goldsboro' and Newbern, to appoint a treasurer from among the stockholders, (but not of their own body,) who shall give [bond] and security for the faithful discharge of his duty, and duly accounting for all the money which may come into his hands as treasurer, to appoint a clerk and such managers and toll-gatherers as they may deem necessary, and to transact all the business of the company during the interval between the general meetings of the stockholders.

Delinquent
Stockholders.

SEC. 11. *Be it further enacted*, That if any stockholder shall fail to pay the sum required of him by the president and directors, or by a majority of them, within one month after the same shall have been advertised in one of the newspapers printed in each of the towns of Goldsboro' and Newbern, it shall and may be lawful for the president and directors, or a majority of them, to sell at public auction and to convey to the purchaser the share or shares of such stockholder so failing or refusing, giving one month's previous notice of the time and place of sale in manner aforesaid, and after retaining the sum and all the charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner or to his legal representatives, and if said sale shall not produce the sum required to be advanced, with all the incidental charges attending the sale, then the president and directors may recover the balance of the original proprietor or his assignee, or the executor or administrator, or either of them, by suit in any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county of which he is a resident, and any purchaser of the stock of the company

under the sale by the president and directors shall be subject to the same rules and regulations as the original proprietor.

SEC. 12. *Be it further enacted*, That if the capital stock of the company hereby incorporated shall be found insufficient for the purposes of this act, it shall and may be lawful for the president and directors of the said company, or a majority of them, from time to time to increase the said capital stock to an amount not exceeding sixty thousand dollars, by the addition of as many shares as they may deem necessary, first giving the individual stockholders for the time being, or their legal representatives, the option of taking such additional shares in proportion to the amount of stock respectively held by them, and opening books in the towns of Kinston and Snow Hill, and such other places as the president and directors may think proper, for any balance of the capital stock created which may not be taken by the stockholders for the time being, or in their behalf, and the subscribers for such additional shares of the capital stock in the said company are hereby declared to be thenceforward incorporated into the said company, with all the privileges and advantages, and subject to all the liabilities of the original stockholders.

Increase of capital.

SEC. 13. *Be it further enacted*, That the president and directors, their officers or agents, may agree with the owners of any land over which the said road or any of its branches is intended to pass, for the purchase thereof, and in case of disagreement, or if the owners shall be *feme covert*, under age, or *non compos*, or out of the State, on application to any two justices of the peace of the county where the lands lie, the

Lands for location of road—how obtained.

justices shall issue their warrant to the sheriff of said county to summon eighteen freeholders to meet on the lands to be valued, on a day expressed in the said warrant, not less than ten nor more than twenty days thereafter, and the sheriff, on receipt of the warrant, shall summon the freeholders accordingly, and when met shall draw twelve of them, who, after being duly sworn, will impartially value the land in question, and consider the damages the owner thereof may sustain, and the inquisition so taken shall be signed by the sheriff and the jury, and returned to the clerk of the county court to be recorded; and in all cases the jury is hereby directed to describe the land valued, and such valuation shall be conclusive, and the president and directors shall pay the sum to the owner of the land valued, or his legal representatives; and if neither can be found in this State, or if they should refuse to receive the money, then to the clerk of the county court; and on payment thereof, the said corporation shall be seized in fee of the land as fully and absolutely as if it had been conveyed to them by the owners.

Lands for toll-houses.

SEC. 14. *Be it further enacted,* That the president and directors may agree with the proprietor or proprietors for any quantity of land not exceeding two acres, at or [near] each place or station intended for collecting tolls, for the purpose of erecting the necessary buildings, gates, &c., and in case of disagreement or of any disabilities aforesaid, or the owner or owners being out of the State, the same proceedings may be had, and the same conveyances shall follow as are described in the preceding section.

SEC. 15. *Be it further enacted*, That it shall and Toll.
may be lawful for the said president and directors to demand and receive at some convenient toll-gates to be by them erected, a reasonable toll from all persons using said plank road or any of its branches, which toll so to be collected shall be so regulated that the profits [shall not exceed] *twenty per cent* on the capital of said company in any one year.

SEC. 16. *Be it further enacted*, That the said Width of road.
road hereby authorized to be made by the president and directors shall not be less than eight nor more than forty feet wide ; and that so soon as five miles in extent shall have been constructed, it shall and may be lawful for the president and directors of said company to erect a *toll-gate*, and collect such toll from persons using said road as may be determined by the president and directors in accordance with the rates imposed by the fifteenth section of this act, and in like proportion for a greater extent of road ; and if any person or persons shall refuse to pay the toll at the time of offering to pass the place or places designated for their collection and previous to passing the same, the toll-gatherers respectively may refuse a passage to the person or persons so refusing to pay ; and if any person or persons shall pass, or drive through any wheel carriage or animal liable to toll without paying the same he or they shall be liable to a fine of five dollars, which fine may be recovered by warrant before any justice of the peace of the county wherein such toll-gate may be situated. Refusal to pay toll—penalties.

SEC. 17. *Be it further enacted*, That if any per- Damage to
son or persons shall wilfully or maliciously injure or in road, punish-
any manner damage or obstruct, or shall wilfully or ble,

maliciously cause, or aid, or assist, or counsel and advise any other person or persons to injure, damage or obstruct the said plank road, toll-gates, or toll-houses, such person or persons so offending shall be liable to be indicted therefor, and on conviction shall be imprisoned or fined at the discretion of the court before which said conviction shall take place.

Account of
proceedings.

SEC. 18. *Be it further enacted*, That the president and directors shall render distinct accounts of their proceedings and disbursements of money to the annual meetings of the stockholders.

Proceedings in
case of inter-
section with
other roads.

SEC. 19. *Be it further enacted*, That whenever in the construction of said plank road it shall be necessary to cross or intersect any established road or way it shall be the [duty] of the president and directors so to construct the said plank road across such established roads or ways as not to impede the passage or transportation of persons or property along the same, and if in the construction of said plank road it may become necessary or expedient to occupy or use any portion of any established road or way it may be lawful for the president and directors to change the said roads at points where they may deem it necessary to do so, and that for entering upon or taking any land that may be necessary therefor, they shall be, and are hereby authorized to proceed under the provisions of this act as in the case of land necessary for the plank road: *Provided further*, That previous to the making of any such change the said company shall make and prepare a road equally good with the portion of the road proposed to be substituted, but nothing herein contained shall be so construed as to make it incumbent on the company to keep in repair the portion of any road which they may have changed as aforesaid.

SEC. 20. *Be it further enacted*, That this act shall be in force from and after the ratification thereof, ^{Duration of charter.} and shall be regarded as a public act, and continue in force for thirty years.

[Read three times and ratified in General Assembly
this 27th day of December, A. D., 1852.]

CHAPTER CXIII.

AN ACT TO INCORPORATE THE LOCKSVILLE AND HILLSBORO' PLANK ROAD COMPANY.

Books to be
opened.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That books may be opened at Locksville, in the county of Chatham, by A. A. Jones, E. Bryan and R. K. Smith; at Hillsboro', in the county of Orange, by E. Strudwick, C. M. Latimer, H. R. Nash and J. M. Palmer, and at such other places and by such other persons as the said commissioners at Locksville shall appoint, to receive subscriptions to an amount not exceeding one hundred thousand dollars, in shares of one hundred dollars each, to construct a plank road from Locksville to Hillsboro', by route to be selected by said company.

And to be kept
open if neces-
sary.

SEC. 2. *Be it further enacted,* That said commissioners shall open the books from time to time as they may think proper until the whole number of shares be subscribed.

Corporate title.

SEC. 3. *Be it further enacted,* That when ten thousand dollars shall be subscribed for, the subscribers shall be incorporated by the name of "The Locksville and Hillsboro' Plank Road Company."

Payments.

SEC. 4. *Be it further enacted,* That upon any subscription there shall be paid at the time of subscribing the sum of one dollar on every share subscribed, and the residue thereof shall be paid in such instal-

ments and at such times as may be required by the president and directors of said company.

SEC. 5. *Be it further enacted*, That the said com- Moneys.
missioners shall pay over to the president and direc-
tors all money received by them.

SEC. 6. *Be it further enacted*, That when ten General meet-
thousand dollars shall have been subscribed, public ing.
notice of it shall be given by the said commissioners
at Locksville, who shall have power at the same time
to call a general meeting of the stockholders at such
convenient place and time as they shall name.

SEC. 7. *Be it further enacted*, That to make any How constitu-
such meeting, persons entitled to a majority of all the ted.
votes which could be given upon all the shares sub-
scribed, shall be present in person or by proxy, and such
a number not attending on that day, those who attend
may adjourn from time to time until a meeting shall
be formed.

SEC. 8. *Be it further enacted*, That the subscrib- President and
ers at their general meeting, and the proprietors of stock Directors.
at every annual meeting thereafter, shall elect a presi-
dent and seven directors, who shall hold office until the
next annual meeting after their election, and until their
successors shall be elected.

SEC. 9. *Be it further enacted*, That the president Vacancies.
with any three or more of the directors, shall constitute
a board to do business; in the event of the sickness
and absence, or disability of the president, any three
or more of the directors may appoint one of their own
body president *pro tem*. In cases of vacancy in the of-

fice of president or any director, such vacancy may be supplied by an appointment by the board until the next annual meeting.

Rights and
powers.

SEC. 10. *Be it further enacted,* That the president and directors shall be invested with all rights and powers necessary for the making and maintaining of a plank road to be located as aforesaid, and may cause to be made, all works necessary to the proper completion of said road.

Contracts.

SEC. 11. *Be it further enacted,* That the president and directors may make contracts with any person on behalf of the company; on any emergency they may call a general meeting of the stockholders, giving one month's notice thereof in some newspaper convenient; they may appoint a treasurer from among the stockholders, (but not of their own body,) who shall give bond and security for the faithful discharge of his duty, also a clerk and such other agents as may be necessary; and they may transact all the business of the company during the intervals between the general meetings.

Officers.

Delinquent
stockholders.

SEC. 12. *Be it further enacted,* That if any stockholder shall fail to pay the sum required of him within one month after the same shall have been advertised in some convenient newspaper, the president and directors may sell at public auction, and convey to the purchaser the shares of such stockholder, giving one month's previous notice of the time and place of sale, in manner aforesaid; and after retaining the sum due and all the charges of the sale, out of the proceeds thereof, pay the surplus over to the former owner, and if the said sale shall not produce the sum required, with all incidental charges attending the sale, the president

and directors may recover the balance from the proprietor by suit or warrant.

SEC. 13. *Be it further enacted*, That the president and directors may agree with the owners of land over which the road is intended to pass for the purchase thereof, and, in case of disagreement, or if the owners shall be *femes coverts*, under age, *non compotes*, [*compos*] or out of the State, on application to any two justices of the peace for the county within which the land lies, they shall issue their warrant to the sheriff of said county to summon eighteen freeholders to meet on the land to be valued, on a day expressed in said warrant, not less than ten nor more than twenty days thereafter, and the sheriff shall summon the freeholders accordingly, and, when met, shall draw twelve of them, who, after being duly sworn thereunto, shall impartially value the land in question and consider the damages the owners thereof may sustain, and the inquisition so taken shall be signed by the sheriff and the jury and returned to the clerk of the county court to be recorded, and [in] all cases the jury is hereby directed to describe the land valued, and such valuation shall be conclusive, and the president and directors shall pay the sum to the owner of the land valued, and if he cannot be found in this State or should refuse to receive the money, then to the clerk of the county court, and, on payment thereof, the said land shall vest in the company so long as the same shall be used for a plank road: *Provided*, That the dwelling-house, kitchen, yard or garden of no person shall be invaded or any part thereof appropriated to the use of said company without the consent of the owner: *Provided further*, That an appeal may be taken from the valuation by the jury hereinbefore mentioned, to be prose-

Lands for the location of road—how to be obtained.

cuted in the same courts and under the same rules that now regulate appeals from justices of the peace.

Land for the
erection of toll
houses.

SEC. 14. *Be it further enacted,* That the board may agree with the owner for any quantity of land, not exceeding two acres, at or near each station intended for collecting tolls, and in case of disagreement or of any disabilities aforesaid, or the owner or owners being out of the State, the same proceedings may be had as are described in the preceding section.

Toll.

SEC. 15. *Be it further enacted,* That the said board may demand and receive, at convenient gates, a reasonable toll from all persons using said road, which toll shall be regulated so that the profits shall not exceed twenty per cent. on the capital of said company in any one year.

Width of road.

SEC. 16. *Be it further enacted,* That the said road shall not be less than eight nor more than sixty feet wide; so soon as ten miles in extent shall have been constructed, the president and directors may erect a toll-gate; and if any person shall refuse to pay the toll at the time of offering to pass the place designated for its collection, and previously to passing the same, the toll-gatherer may refuse a passage to him so failing to pay; and if any person shall pass, or drive through any wheel carriage, or animal liable to toll without paying the same, he shall be liable to a fine of five dollars, which fine may be recovered by warrant before any justice of the peace for the county in which the gate is erected.

Damage to
road made
punishable.

SEC. 17. *Be it further enacted,* That any person wilfully or maliciously damaging or obstructing, or wilfully or maliciously causing, aiding or counselling any

other person to damage or obstruct the said road, toll-gates or toll houses, shall be liable to be indicted therefor as a misdemeanor.

SEC. 18. *Be it further enacted*, That the board shall render accounts of their proceedings to the annual meetings of the stockholders. Account of proceedings.

SEC. 19. *Be it further enacted*, That whenever said road shall cross any established road or way, the president and directors shall so construct the said plank road as not to impede passage along the same; and if it be necessary or expedient to use any portion of any established public road or way, it may be lawful for the board to change said road at points where they may deem it necessary; and that for entering upon or taking any land necessary therefor, they are authorized to proceed under the provisions of this act, [as] in the case of land necessary for the plank road; *Provided*, That previously to the making of any such change, the said company shall make a road equally good with the portion for which it is substituted; but it shall not be incumbent on the company to keep in repair the portion of any road which they may have changed as aforesaid. Intersection with other roads—proceedings in such case.

SEC. 20. *Be it further enacted*, That any number of stockholders holding one-fourth of the stock, by a request in writing to the board, may cause a general meeting to be called; and to such meeting the board shall make a report similar in all respects to the one required to be made at annual meetings. Report.

Branches.

SEC. 21. *Be it further enacted*, That the board may cause to be constructed as many branches of plank roads diverging from the main stem herein before mentioned, as they shall judge necessary and proper; and for the construction, maintenance and government of such branches, they are hereby invested with all the rights and authority already conferred respecting the said main stem.

[Read three times and ratified in General Assembly
this 27th day of December, A. D., 1852.]

CHAPTER CXIV.

AN ACT TO INCORPORATE THE LUMBERTON AND CAPE FEAR PLANK ROAD COMPANY.

SEC. 1. *Be it enacted by the General Assembly of* Corporate title.
the State of North Carolina, and it is hereby enacted by the authority of the same, That T. A. Norment, B. Freeman, J. Blount, R. E. Troy, Charles Ivey, jr., Reuben King, R. B. Gregory, E. McQueen, R. S. French, Joseph Thompson, William Blount, J. T. Pope, D. W. Rogers, W. W. Gunn, John W. Powell, S. Howell, and Neill Regan, of the county of Robeson, and John F. Council, J. J. McKay, Wesley Perdie, W. N. Whitted, James Robeson, and Thomas Robeson, of the county of Bladen, with such persons as now are or hereafter may be associated with them, their successors or assigns, be and they are hereby created a body politic and corporate, by the name and style of the Lumberton and Cape Fear Plank Road Company; and by that name and style may acquire, hold, possess, and transfer such real, personal, and mixed estate, so far as may be necessary for the purpose of constructing the road hereinafter authorized to be made, or of managing the affairs of said company; and shall have perpetual succession and a common seal, which they shall have power to alter or renew at pleasure, and shall have and enjoy, and may exercise all the powers, rights, and privileges, which other corporate bodies may lawfully do, for the purposes mentioned in this act, and may make all such by-laws, rules and regulations, not inconsistent with the laws of this State or of the United States, as shall

be necessary for the management and conducting the affairs of the company, and by said name may sue and be sued, plead and be impleaded, in any of the courts of this State.

Capital.

SEC. 2. *Be it further enacted*, That the capital of said company shall not exceed fifty thousand dollars, in shares of fifty dollars, the payment or securing the stock of said company to be made under such rules and regulations as may be provided by the board of directors hereinafter provided for ; the said company shall have power to construct a plank road from the town of Lumberton to some point on the Cape Fear river, in Bladen county, to be determined upon at the first general meeting of the stockholders, starting from the town of Lumberton and passing over the most practicable route to the said point.

General meeting.

SEC. 3. *Be it further enacted*, That a general meeting of the stockholders of said company shall be called at such time and place as may be convenient for the same, by giving at least ten days notice of the same in one or more of the papers published in the towns of Fayetteville and Wilmington ; that to constitute any such meeting, a number of shares entitled to a majority of votes which could be given on all the shares subscribed shall be present, either in person or by proxy ; and if a sufficient number to constitute a meeting do not attend on that day, they shall have power to adjourn from time to time until a meeting shall be formed.

How constituted.

President and Directors.

SEC. 4. *Be it further enacted*, That the subscribers to the stock of said company at their meeting herein before directed to be called, and the proprietors at every annual meeting thereafter, shall elect nine directors

and [a] president, with all other officers necessary for the transaction of business, who shall continue in office, unless sooner removed, until the next annual meeting after their election, and until their successors shall be elected. But the said president and directors, or any of them, may at any time be removed, and the vacancy thereby occasioned be filled by a majority of the votes given at any general meeting. The president with any three or more of the directors, or in the absence of the president, any four or more of the directors who may appoint one of their number president *pro tempore*, shall constitute a board for the transaction of business. In a case of vacancy in the board of directors happening from resignation or otherwise, such vacancy shall be supplied by the appointment of the board until the next annual meeting.

SEC. 5. *Be it further enacted*, That the board of directors of said company shall be and are hereby invested with all the rights and powers necessary for the construction and repairs of the road herein authorized to be made, and also to make, purchase and construct all such mills and other necessary works for the construction and well-ordering of said road. Rights and powers.

SEC. 6. *Be it further enacted*, That said board of directors shall have power to make contracts with any person or persons on behalf of the company for the construction of said road, and of performing all other things respecting the same which they may think necessary, and from time to time to require from the stockholders such advances of money on their respective shares as the wants of the company may demand, until the whole of their subscriptions shall be paid; to call, on any emergency, a general meeting of the stock- Contracts.

Officers.

holders, giving at least twenty days' notice thereof in one or more of the papers printed in the towns of Fayetteville and Wilmington; to appoint such officers as they may deem necessary to transact the business of the company, taking from them, at their discretion, bond and security for the faithful discharge of their several duties, and duly accounting for all money coming into their hands; to appoint such superintendents, managers and toll-gatherers as may be necessary, and generally to transact all the business of the company between the general meetings of the stockholders.

Delinquent
stockholders.

SEC. 7. *Be it further enacted*, That if any stockholder shall fail to pay the sum required of him by the board of directors, it shall and may be lawful for said board to sell at public auction and convey to the purchaser the share or shares of such stockholder so failing or refusing, giving twenty days' previous notice of the time and place of such sale, in manner aforesaid, and, after retaining the sum due and the charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner, or to his legal representative, and if said sale shall not produce the sum required to be advanced, with all incidental charges attending the sale, then the said board of directors may recover the balance of the original proprietor, or his assignees, or of the executor or administrator of either of them, by suit in any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county of which he, she or they are resident, and any purchaser of the stock of the company under a sale by order of the board of directors shall be subject to the same rules and regulations as the original proprietors.

SEC. 8. *Be it further enacted*, That the said board of directors, their officers or agents, may agree with the owners of any lands over which the said road is intended to pass for the purchase and transfer thereof, and, in case of disagreement, or if the owners shall be *feme covert*, under age, *non compos mentis*, or out of the State, on application to any two justices of the peace of the county where the lands lie, the justices shall issue their warrants to the sheriff of said county to summon eighteen freeholders to meet on the land to be valued on the day expressed in said warrant, not less than ten nor more than twenty days thereafter, and the sheriff, on the receipt of the warrant, shall summon the freeholders accordingly, and, when met, shall draw twelve of them, who, after being duly sworn, shall impartially value the land in question and consider the damages, if any, the owner thereof may sustain, and the inquisition so taken shall be signed by the jury and countersigned by the sheriff and returned to the clerk of the county court to be recorded, and, in all cases the jury is hereby directed to discribe the land valued, and if either party is dissatisfied with the amount of damages assessed by the jury, the right of appeal is hereby reserved to either, to the county or superior court, under the same rules as are now prescribed, and the said board of directors shall pay the sum to the owner of the land valued, or his legal representative, and if neither can be found in this State, or if they refuse to receive the money, then to the clerk of the county court, and, on payment thereof, the said corporation shall be seized in fee of the land as fully and absolutely as if it had been conveyed to them by the owner: *Provided*, That no portion of the dwelling-house, yard, kitchen, garden or burial place shall be invaded or condemned to the use of said corporation without the owner's consent.

Lands for location of road—
how obtained.

Land for Toll-
house, &c.,
how to be ob-
tained.

SEC. 9. *Be it further enacted,* That said board of directors or their agents may agree with the proprietor or proprietors for any quantity of land they may deem necessary for their purposes at or near each station or place intended for the collection of tolls, for the purpose of erecting the necessary buildings, gates, &c., intended for the purposes of the company; and in case of disagreement or any disability as aforesaid, the same proceedings may be had, and the same conveyance shall follow as are prescribed in the preceding section: *Provided,* That in such case not more than two acres of land shall be condemned to the use of said company at any one station.

Toll.

SEC. 10. *Be it further enacted,* That it shall and may be lawful for the said board of directors as soon as five miles are completed, to demand and receive at convenient toll-gates, to be by them erected, a reasonable toll from all persons using said plank road; said road not to be made less than eight nor more than sixty feet wide.

Penalty of re-
fusal to pay
toll.

SEC. 11. *Be it further enacted,* That if any person or persons shall refuse to pay the toll at the time of offering to pass the place or places designated for the collection of tolls, and previous to passing the same, the toll-gatherers respectively shall refuse a passage to the person or persons so refusing to pay; and if any person shall forcibly or fraudulently pass any gate thereon without having paid the legal toll, or if any person shall, to avoid paying the legal toll, turn out of said road with his team, stock, carriage or horse on ground adjacent thereto, and again enter upon said road, or if any person shall fraudulently use said road between the points designated for the collection of

aid tolls without paying the same, he, she or they shall pay a fine of five dollars for every such offence, to be recovered by warrant before any justice of the peace in the county in which such toll-gate or point of collection shall be situated.

SEC. 12. *Be it further enacted*, That if any person or persons shall wilfully or maliciously or in any manner damage or obstruct or shall in like manner cause any other person or persons to injure or obstruct the said road, toll-gates or toll houses, or any property or effects of said company, such person or persons so offending shall be liable to be indicted therefor, and on conviction shall be fined or imprisoned at the discretion of the courts, and shall be further liable for damages that may be sustained on account of such injury.

Damage to road punishable.

SEC. 13. *Be it further enacted*, That distinct accounts of the proceedings and disbursements of the board of directors shall be made by them to the annual meeting of the stockholders.

Account of proceedings.

SEC. 14. *Be it further enacted*, That whenever in the construction of said road it may be necessary to cross or intersect any established road or way, it shall be the duty of the board of directors so to construct the said plank road across such established road or way as not materially or unnecessarily [to] impede the passage or the transportation of persons or property along the same; and if in the construction of said plank road or of any toll-gate or toll-house, it may become necessary or expedient to use or change any portion of any established road or way, it may be lawful for the board of directors to change the said road or roads, at points where they may deem it necessary or expedient to do

Proceedings in case of intersection with other roads.

so, and for entering upon or taking any land therefor, they shall be and are hereby authorized to proceed under the provisions of this act as in case of land necessary for the plank road: *Provided*, That previous to any such change the said company shall make and prepare a road or way equally good, as the one proposed to be substituted, [taken,] which shall discharge them from further obligations in relation thereto.

Duration of
charter.

SEC. 15. *Be it further enacted* That this act shall be in force from and after its ratification, and shall be regarded as a public act, and continue in force for fifty years.

[Read three times and ratified in General Assembly,
this 18th day of December, A. D., 1852.]

CHAPTER CXV.

AN ACT TO INCORPORATE THE LUMBERTON AND COLUMBUS PLANK ROAD COMPANY.

SEC. 1. *Be it enacted by the General Assembly of* Corporate title.
the State of North Carolina, and it is hereby enacted by
the authority of the same, That M. E. McNeill, R. E. Troy, Edward Lewis, Eli Meshart, John Marwick, Moses Mears, Uriah Pitman, A. Fulmore, Bright Williams, and Thomas Britt, of Robeson county, Alfred Smith, J. A. Maulsby, A. F. Powell, Abna Smith, Haynes Lennon, and Dr. F. Williamson, of Columbus county, with such persons as now are, or hereafter may be associated with them, their successors or assigns, be and they are hereby created a body politic and corporate by the name and style of the Lumberton and Columbus Plank Road Company, and by that name and style may acquire, hold, possess, and transfer such real, personal, and mixed estate, so far as may be necessary for the purpose of constructing the road herein authorized to be made, or of managing the affairs of said company, and shall have perpetual succession and a common seal, which they shall have power to alter and renew at pleasure, and shall have and enjoy, and may exercise all the powers, rights and privileges which other corporate bodies may lawfully do, for the purposes mentioned in this act, and may make all such by-laws, rules and regulations, not inconsistent with the laws of this State or of the United States, as shall be necessary for the well ordering and conducting of the affairs of the company, and by said name may sue and be sued, plead and be impleaded, in any of the courts of this State.

Capital stock.

SEC. 2. *Be it further enacted*, That the capital stock of said company shall not exceed sixty thousand dollars in shares of fifty dollars each, the payment or securing of the stock of said company to be made under such rules and regulations as may be provided by the board of directors hereinafter provided for, the said company shall have power to construct a plank road from the town of Lumberton to some point on the Wilmington and Manchester Railroad, either at Whitesville or Flair Bluff depot, or some point between those places, starting from the town of Lumberton and passing over the most practicable route to the point which shall be determined on by said company at its first annual meeting.

General meeting.

SEC. 3. *Be it further enacted*, That a general meeting of the stockholders of said company shall be called at such time and place as may be convenient for the same, by giving public notice in one or more of the papers published in the town[s] of Wilmington and Fayetteville, giving at least ten days notice of the time and place of holding such meeting: that to constitute any such meeting, a number of shares entitled to a majority of votes, which could be given upon all the shares subscribed, shall be present either in person or by proxy, and if a sufficient number to constitute a meeting do not attend on that day, those who do attend shall have power to adjourn from time to time until a meeting shall be formed.

President and Directors.

SEC. 4. *Be it further enacted*, That the subscribers to the stock of said company at their meeting hereinbefore directed to be called, and the proprietors of stock at every annual meeting thereafter, shall elect nine directors and a president, with all other officers

necessary for the transaction of business, who shall continue in office unless sooner removed, until the next annual meeting after their election, and until their successors shall be elected. But the said president and directors, or any of them, may at any time be removed, and the vacancy thereby occasioned be filled by a majority of the votes given at any general meeting. The president with any three or more of the directors, or in the absence of the president, any four or more of the directors, who may appoint one of their number president *pro tem* shall constitute a board for the transaction of business. In case of vacancy in the board of directors happening from resignation or otherwise, such vacancy shall be supplied by the appointment of the board until the next annual meeting.

SEC. 5. *Be it further enacted*, That the board of directors of said company shall be, and are hereby invested with all the rights and powers necessary for the construction and repairs of the plank road herein authorized to be made, and also to make, purchase and construct all such mills and other works as may be necessary for the construction and well-ordering of said road.

SEC. 6. *Be it further enacted*, That said board of directors shall have power to make contracts with any person or persons on behalf of the company for the construction of said road, and of performing all other things respecting the same, which they may think necessary, and from time to time to require from the stockholders such advances of money on their respective shares as the wants of the company may demand until the whole of their subscriptions shall be paid; to call on any emergency a general meeting of the stock-

Officers.

holders, giving at least twenty days' notice thereof, in one or more papers printed in Wilmington and Fayetteville; to appoint such officers as they may deem necessary to transact the business of the company, taking from them at their discretion bond and security for the faithful discharge of their several duties and duly accounting for all monies coming into their hands, to appoint such superintendents, managers and toll-gatherers as may be necessary, and generally to transact all the business of the company between the general meetings of the stockholders.

Delinquent
stockholders.

SEC. 7. *Be it further enacted*, That if any stockholder shall fail to pay the sum required of him by the board of directors, it shall and may be lawful for said board of directors to sell at public auction and convey to the purchaser the share or shares of such stockholders so failing or refusing, giving twenty days' previous notice of the time and place of such sale in manner and form aforesaid, and, after retaining the sum due and the charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner, or to his legal representatives, and if such sale shall not produce the sum required to be advanced, with all the incidental charges attending the sale, then the said board of directors may recover the balance of the original proprietor, or his assignee, or of the executor or administrator of either of them, by suit in any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county of which he, she or they are resident, and any purchaser of the stock of the company under a sale by order of the board of directors shall be subject to the [to the] same rules and regulations as the original proprietors.

SEC. 8. *Be it further enacted,* That the said board of directors, their officers or agents, may agree with the owners of any lands over which said road is intended to pass, and, in case of disagreement, or if the owner shall be *feme covert*, under age, *non compos mentis*, or out of the State, on application to any two justices of the peace of the county where the lands lie, the justices shall issue their warrants to the sheriff of said county to summon eighteen freeholders to meet on the land to be valued on the day expressed in said warrant, not less than ten nor more than twenty days thereafter, and the sheriff, on the receipt of the warrant, shall summon the freeholders accordingly, and, when met, shall draw twelve of them, who, after being duly sworn, shall impartially value the land in question and consider the damages, if any, the owners thereof, may sustain, and the inquisition so taken shall be signed by the jury and countersigned by the sheriff and returned to the clerk of the county court to be recorded, and in all cases the jury is hereby directed to describe the land valued, and such valuation shall be conclusive, and the said board of directors shall pay the sum to the owner of the land valued, or his legal representative, and if neither can be found in this State, or if they refuse to receive the money, then to the clerk of the county court, and, on payment thereof, the said corporation shall be seized in fee of the land as fully and absolutely as if it had been conveyed to them by the owner.

Lands for location of road—
how obtained.

SEC. 9. *Be it further enacted,* That the said board of directors, or their agents, may agree with the proprietor or proprietors for any quantity of land they may deem necessary for their purposes, at or near each station or place intended for the collection of tolls, for

Lands for toll-houses, &c.—
how to be obtained.

the purpose of erecting the necessary buildings, gates, &c., intended for the purposes of the company, and, in case of disagreement, or of any disability as aforesaid, the same proceedings may be had and the same conveyance shall follow as are prescribed in the preceding section: *Provided*, That, in case of disagreement, not more than five acres of land shall be condemned to the use of the company.

Toll.

SEC. 10. *Be it further enacted*, That it shall and may be lawful for the said board of directors, as soon as five miles are completed, to demand and receive, at convenient toll-gates to be by them erected, a reasonable toll from all persons using said plank road, said road to be made not less than eight nor more than sixty feet wide: *Provided*, The toll to be collected on said road shall be so regulated that the profits shall not exceed twenty-five per cent. on the capital of said company in any one year.

Refusal to pay
toll.

SEC. 11. *Be it further enacted*, That if any person or persons shall refuse to pay the toll at the time of offering to pass the place or places designated for the collection of tolls, and previous to passing the same, the toll-gatherers respectively may refuse a passage to the person or persons refusing to pay; and if any person forcibly or fraudulently pass any gate thereon without having paid the legal toll, and every person who, to avoid paying the legal toll, shall, with his team, carriage or horse, fraudulently turn out of said road on ground adjacent thereto, and shall enter again upon said road, and any person or persons who shall fraudulently use said road between the points designated for the collection of said tolls, without paying the same, he, she or they shall pay a fine of five dol-

lars, to be recovered by warrant before any justice of the peace in the county where such toll-gate or point of collection shall be situated.

SEC. 12. *Be it further enacted,* That if any person or persons shall wilfully or maliciously injure or in any manner damage or obstruct, or shall wilfully or [or] maliciously cause any other person or persons to injure or obstruct the said plank road, toll-gate or toll-house, or any property or effects of said company, such person or persons so offending shall be liable to be indicted therefor, and, on conviction, shall be fined or imprisoned at the discretion of the court before which said conviction shall take place, and shall further be liable for damages that shall be sustained on account of such injury.

Damage to road, &c., punishable.

SEC. 13. *Be it further enacted,* That distinct accounts of the proceedings and disbursements of the board shall be made by them to the annual meeting of the stockholders.

Account of Proceedings.

SEC. 14. *Be it further enacted,* That whenever in the construction of said road it may be necessary to cross or intersect any established road or way, it shall be the duty of the board of directors so to construct the said plank road across such established road or way as not to impede the passage or transportation of persons or property along the same, and if in the construction of said plank road, or of any toll gate or toll-house it may become necessary or expedient to use or change any portion of any established road or way, it may be lawful for the board of directors to change the said road or roads at points where they may deem it necessary or expedient to do so, and for entering upon

Proceedings in case of intersection.

or taking any land therefor they shall be and are authorized hereby to proceed under the provisions of this act, as in case of land necessary for the plank road: *Provided further*, That previous to any such change the said company shall make and prepare a road equally good as the one proposed to be substituted [taken]; but nothing herein contained shall be so construed as to make it incumbent on said company to keep in repair the portion of road they may have changed as aforesaid.

Duration of
charter.

SEC. 15. *Be it further enacted*, That this act shall be in force from and after its ratification, and shall be regarded as a public act, and be continued in force fifty years.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

CHAPTER CXVI.

**AN ACT TO INCORPORATE THE NEUSE RIVER AND
SNOW HILL PLANK ROAD COMPANY.**

SEC. 1. *Be it enacted by the General Assembly of* Books to be
opened. *the State of North Carolina, and be it hereby enacted
by the authority of the same,* That it shall be lawful
to open books in the town of Newberne, under the
direction of Samuel Oliver, John Blackwell, Alonzo
T. Jerkins, and John D. Whiteford, or any two of
them; in the town of Kinston, under the direction of
Dr. H. W. Blount, Pinckney Hardie, and T. B. Cara-
way, or any two of them; in the town of Snow Hill,
under the direction of Dr. Will. H. Horn, Henry
Best, Henry H. Harper, and Edward Petrick, or any
two of them, for the further purpose of receiving sub-
scriptions to an amount not exceeding twenty thou-
sand dollars, in shares of twenty-five dollars each, for
the purpose of effecting a communication between the
town of Snow Hill, in the county of Green, and Bec-
ton's old field on Neuse River; the route to be fol-
lowed and the points of communication between said
places to be determined by said company after the
same shall have been formed.

SEC. 2. *Be it further enacted,* That the times Advertisement
of times and
places. and places of receiving such subscriptions shall be ad-
vertised in one of the papers printed in the town of
Newberne, and shall not be closed within ten days
after the opening; and the said commissioners shall
have power to open books from time to time as they
think proper, until the whole number of shares be
subscribed.

Corporate title.

SEC. 3. *Be it further enacted,* That when the sum of five thousand dollars shall be subscribed for in manner aforesaid, the subscribers, their executors, administrators, or assigns, shall be and they are hereby declared to be incorporated into a company, by the name and style of the Neuse River and Snow Hill Plank Road Company, and by that name shall be capable in law of purchasing, holding, selling, leasing, and conveying estates, real, personal, and mixed, so far as may be necessary for the purpose of said company, either in constructing said road or managing the affairs of said company, and shall have perpetual succession; and by said corporate name may sue and be sued, and may have a common seal, and shall have and enjoy, and may exercise all the powers, rights and privileges which other corporate bodies may lawfully do, for the purposes mentioned in this act, and may make all such by-laws, rules and regulations, not inconsistent with the laws of this State or of the United States, as shall be necessary for the well ordering and conducting the affairs of said company.

Payments.

SEC. 4. *Be it further enacted,* That upon any subscription of stock as aforesaid, there shall be paid at the time of subscribing to the said commissioners or their agents appointed to receive such subscription, the sum of one dollar on every share subscribed, and the residue thereof shall be paid or secured in such manner and at such time and times as may be required by the board of directors of said company.

Moneys.

SEC. 5. *Be it further enacted,* That the said commissioners or their agents, shall forthwith after the first election of a board of directors of said company, pay over to said directors all moneys received by them;

and on failure thereof the said directors may in the name of said company, recover the amount due by said commissioners in the court of pleas and quarter sessions, or by warrant before any justice of the peace.

SEC. 6. *Be it further enacted*, That when the sum of five thousand dollars shall have been subscribed, public notice of that event shall be given by said commissioners at Newberne, who shall at the same time call a general meeting of the stockholders at such convenient time and place as they shall name in said notice. General meeting.

SEC. 7. *Be it further enacted*, That to constitute such meeting, a majority of the stockholders shall be present either in person or by proxy, and if a sufficient number to constitute a meeting do not attend on that day, those who attend shall have the power to adjourn from time to time until a meeting shall be formed. How constituted.

SEC. 8. *Be it further enacted*, That the subscribers at such general meeting, and at every annual meeting thereof, [thereafter] shall elect five directors, one of whom shall be by said directors elected President of such company: the president with any two or more directors, or in the absence of the president any three of the directors shall constitute a board for the transaction of the general business of the company: in case of a vacancy in the board of directors, happening from death, resignation or otherwise, such vacancy may be supplied by the appointment by the board of any one of the stockholders until the next annual meeting of the stockholders. President and Directors.

Rights and
powers.

SEC. 9. *Be it further enacted,* That the said company shall be, and they are hereby invested with all the rights and powers necessary for the construction, repairs and maintaining of a plank road, to be located as aforesaid, with such branches diverging from the main stem as the stockholders in general meeting may authorize and cause to be made, which may be necessary for the completion of said road and all its branches.

Contracts.

SEC. 10. *Be it further enacted,* That the said board of directors shall have power to make contracts with any person or persons on behalf of said company for making said plank road, together with any branches of the same, and performing all other things respecting the same which they shall deem necessary and proper; and to require from the subscribers, from time to time such instalments on their stock as they may deem necessary for the purposes of the company, until the whole of their subscription shall be paid; to call on any emergency a general meeting of the stockholders, giving one month's notice thereof in a newspaper printed in the town of Newberne; to appoint such officers as they may deem necessary to transact the business of the company, taking from them bond and sufficient security for the faithful discharge of their several duties, and duly accounting for all moneys coming into their hands, and generally to transact all the business of the company between the general meetings of the stockholders.

Officers.

Delinquent
stockholders.

SEC. 11. *Be it further enacted,* That if any stockholder shall fail to pay the sum required of him by the board of directors or a majority of them, within one month after the same shall have been advertised in a newspaper published in the town of Newberne, it shall

and may be lawful for said board of directors, or a majority of them, (having first notified in writing such defaulting stockholder of their intention so to do,) to sell at public auction, and to convey to the purchaser, the share or shares of such stockholder so failing or refusing, giving one month's previous notice of the time and place of sale as aforesaid, and after retaining the sum due, and all the charges of the sale, out of the proceeds thereof, to pay the surplus over to such stockholder or to his legal representative, and if the said sale shall not produce the sum required, with all incidental expenses attending such sale, then the said board of directors may recover the balance of the original proprietor or his assignee, or the executor or administrator or either of them, by suit in any court of record having jurisdiction thereof, or before any justice of the peace of the county of which he is a resident; and any purchaser of the stock of the company, under a sale by order of the board of directors, shall be subject to [the] same rules and regulations as the original proprietors.

SEC. 12. *Be it further enacted,* That the said company by their agents or officers, may agree with the owners of any land over which said road or any of its branches is to pass, for the purchase of the road way, and also for the purchase of suitable locations for their toll-houses, toll-gates, and other necessary buildings, the land for such road way not to exceed sixty feet in width, and the land necessary for sites for their buildings or erections as aforesaid, not to exceed two acres in any one parcel, and in case of disagreement with the owner of such land, or if the owner be *feme covert, non compos*, under age, or out of the State, said company by their officers or agents, may apply to any two justices of the peace either for the county of Greene

or Lenoir, who shall thereupon issue their warrant to the sheriff of either of their respective counties to summon eighteen disinterested freeholders to meet on the land to be valued, on a day to be expressed in said warrant, which shall be within twenty and not less than ten days from the issuing thereof; and the sheriff upon receipt of any such warrant, shall summon such freeholders accordingly, and when met, he shall by lot draw twelve of them, who after being duly sworn, shall impartially estimate the value of so much of said land as may be required for the road way, or for the site for any building or erection required for said company as the case may be, the width of such road way and the land for such sites for any building or erection to be and continue the maximum quantity of land, which said company is, by previous provisions in this section, authorized to acquire by purchase upon agreement with the owner; and after the said jury has duly considered the damages sustained by owner of said land and assessed the same, the sheriff shall cause said inquisition to be reduced to writing and signed by the jury and countersigned by himself, and returned to the clerk of the county court to be recorded: *Provided*, That in locating said road no dwelling house, yard, garden, kitchen or burial ground shall be condemned without the owner's consent; and wherever the amount of damages assessed by the jury shall be unsatisfactory, either party may appeal to the county or superior court under the rules regulating the appeals from judgments of justices of the peace.

Toll.

SEC. 13. *Be it further enacted*, That it shall and may be lawful for the said board of directors to demand and receive at some convenient toll-gate to be erected by them, a reasonable toll from all persons using said plank road or any of its branches.

Width of road.

SEC. 14. *Be it further enacted*, That the road hereby authorized to be made, shall not be less than eight nor more than thirty feet wide, and that as soon as five miles in extent shall have been constructed, it shall and may be lawful for the said board of directors to demand and collect such toll from persons using said road as may be by them determined in accordance with the rules imposed by the thirteenth section of this act, and in like proportion for a greater extent of road ; and if any person or persons shall forcibly or fraudulently pass any toll-gate thereon without having paid the legal toll there due, or without the consent of the toll-gatherer at such gate, or if any person or persons, to avoid paying toll shall, with his team, carriage, cart or other vehicle, or with his horse or horses or other beasts with no vehicle to them attached, turn out of such road before reaching any toll-gate thereon, or if any person or persons shall fraudulently use said road between any of the places where tolls are collected thereon, or any part or portion of said road, without paying the toll due for the portion of said road so used by him, every such person or persons violating any one or more of the provisions of this section, shall severally, if a white man or a free person of color, pay a fine of five dollars, to be recovered in the name and for the use of said company by warrant before any justice of the peace for the county of Greene or Lenoir respectively ; and if a slave, shall receive such punishment by whipping, as shall be adjudged by any justice of the peace for the counties of Greene and Lenoir respectively, under a warrant, to be issued in the name of said company against such slave: *Provided, however*, That such whipping shall not exceed twenty-five lashes.

Refusal to pay
toll—proceed-
ings in such
case.

Injury to road,
&c., made
punishable.

SEC. 15. *Be it further enacted,* 'That if any person or persons shall wilfully or maliciously injure or in any manner damage or obstruct, or shall wilfully or maliciously cause, aid, assist, counsel or advise any other person or persons to injure, damage or obstruct said plank road, toll-gates, or toll-houses, or any of the property or effects of said company, such person or persons so offending shall be liable to be indicted therefor, and on conviction shall be imprisoned or fined at the discretion of the court before which said conviction shall take place.

Account of
proceedings.

SEC. 16. *Be it further enacted,* That distinct accounts of the proceedings and disbursements of said board shall be made by them to the annual meetings of the stockholders: *Provided,* That if a number of stockholders, holding one-fourth in amount of the capital stock of said company, shall ask of the board in writing a call of a general meeting of the stockholders, such meeting shall be called, and to such meeting the board shall make a report similar in all respects to the one required to be made at the annual meetings.

Proceedings in
case of inter-
section.

SEC. 17. *Be it further enacted,* That whenever, in the construction of said road, it may be necessary to cross or intersect any established road or way, it shall be the duty of the board of directors so to construct said plank road across such established roads or ways, as not to impede the transportation of persons or property along the same; and if, in the construction of said plank or any of its branches, or of any of its toll-gates or toll-houses, it may become necessary or expedient to use or change any portion of any established public road or way, it may be lawful for said

board of directors to change the said road at points where they may deem it necessary or expedient to do so ; and that for entering upon or taking any land necessary therefor, they shall [be] and are hereby authorized to proceed under the provisions of this act, as in the case of land necessary for the plank road : *Provided, further,* That previous to making any such change, the said company shall make a road equally as good with the road proposed to be used by them ; but nothing herein contained shall be so construed as to make it incumbent on said company to keep in repair the portion of any road which they may have changed as aforesaid.

SEC. 18. *Be it further enacted,* That this act shall be in force from and after its ratification, and shall be regarded as a public act, and continue in force for thirty years. Duration of charter.

[Read three times and ratified in General Assembly this 27th day of December, A. D., 1852.]

CHAPTER CXVII.

AN ACT TO INCORPORATE THE NORTH CAROLINA STEAM CARRIAGE AND PLANK ROAD COMPANY.

Preamble.

Whereas, it is confidently believed that carriages, run by steam, may be successfully used on plank roads, if not on common roads, and as no doubt exists that their introduction would greatly promote the interests of the State, Therefore, to encourage experiments,

Corporate title.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That George McNeill, Edward Lee Winslow, David A. Ray, of the town of Fayetteville, and their associates, successors, and assigns, &c., be and they are hereby created a corporation and body politic, by the name and style of the North Carolina Steam Carriage and Plank Road Company.*

Capital stock.

SEC. 2. *Be it further enacted, That the capital stock of said company shall be two thousand five hundred dollars, divided into shares of fifty dollars each, with the privilege of increasing the same to two hundred thousand dollars: Provided, That whenever the stock of the said company shall be increased, the original subscribers shall have the right of subscribing the amount of the increase, before the books of subscription are open to the public.*

SEC. 3. *Be it further enacted*, That the said company shall have power and authority to construct and run said carriages on plank roads, turnpike roads, and the common roads, by and with the consent of the owners thereof, agreeably to such rules and regulations as the parties respectively may agree upon.

Authority to
construct and
run steam car-
riages.

SEC. 4. *Be it further enacted*, That the said company shall have the exclusive right and privilege of running their carriages in this State for twenty years: *Provided*, That the said company shall within the time of one year have in successful operation one carriage.

Exclusive right
granted for
twenty years.

Proviso.

SEC. 5. *Be it further enacted*, That the said company shall have power to build a plank road from the Cape Fear River, at the town of Fayetteville, to the coal mines on Deep River, and for that purpose shall be and are hereby entitled to all the rights and privileges granted by the act of the Legislature of 1850-51, chapter 50, entitled "An act concerning corporations," and also with the rights and privileges granted by the charter of the Fayetteville and Raleigh Plank Road Company, passed at the present session of the Legislature.

Power granted
to build a plank
road.

SEC. 6. *Be it further enacted*, That this act shall be in force from and after the ratification thereof.

[Read three times and ratified in General Assembly
this 25th day of December, A. D., 1852.]

CHAPTER CXVIII.

AN ACT TO INCORPORATE THE PEDEE PLANK ROAD COMPANY.

Books to be
opened.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful to open books in the town of Rockingham under the direction of Henry W. Harrington, Miel Wall, John W. Covington, Stephen Cole, Walter F. Leak, W. B. Cole, William Powell, Robert J. Steele, jr. and B. B. McKinzie or any three of them; and at such other places and under the direction of such other persons, as the commissioners herein before named shall direct, for the purpose of receiving subscriptions to an amount not exceeding fifty thousand dollars in shares of twenty-five dollars each, for the purpose of constructing a plank road from the South Carolina line, at or within five miles of Harrington's Mills to Rockingham; the precise route and points of said road to be determined by the company after the same shall be formed.

And kept open
from time to
time.

SEC. 2. *Be it further enacted,* That the times and places of receiving such subscriptions shall be advertised in the Gazette published in the town of Cheraw, South Carolina, and in the North Carolina Argus, a paper published in the town of Wadesborough, and the books for receiving the same shall not be closed within ten days after the opening; and said commissioners shall have power to open books from time to time as they think proper until the whole number of shares be subscribed.

SEC. 3. *Be it further enacted,* That when the sum Corporate title.
of ten thousand dollars shall be subscribed for in the manner aforesaid, the subscribers, their executors, administrators or assigns shall be, and are hereby declared to be incorporated into a company by the name and style of "The Pedee Plank Road Company," and by that name shall be capable in law of purchasing, holding, selling, leasing and conveying estates, real, personal and mixed, so far as may be necessary for the purposes of said company, either in constructing or managing the affairs of said company, and shall have perpetual succession, and by said corporate name may sue and be sued, and may have a common seal, which they shall have power to alter or renew at pleasure, and shall have and enjoy and may exercise all the powers, rights and privileges which other corporate bodies may lawfully do, for the purposes mentioned in this act, and may make all such by-laws, rules and regulations, not inconsistent with the laws of this State or of the United States, as shall be necessary for the well ordering and conducting of the affairs of said company.

SEC. 4. *Be it further enacted,* That upon any Payments.
subscription of stock as aforesaid, there shall be paid at the time of subscribing, to the said commissioners or their agents appointed to receive such subscriptions, the sum of one dollar on every share subscribed, and the residue thereof shall be paid or secured in such manner and at such time or times, as may be required by the board of directors of said company.

SEC. 5. *Be it further enacted,* That the said commissioners or their agents shall forthwith, after the first election of the board of directors of said company, pay over to said directors all monies received by them ; Disposition of
moneys.

and on failure thereof the said directors may recover the amount due from them, by legal process in the court of pleas and quarter sessions, or in the superior courts of law in any county wherein such commissioner or commissioners may reside, or by warrant before any justice of the peace for said county.

General meeting.

SEC. 6. *Be it further enacted,* That when ten thousand dollars shall have been subscribed, public notice of that event shall be given, by the said commissioners at Rockingham, who shall at the same time call a general meeting of the stockholders, at such convenient place and time as they may name in said notice.

How constituted.

SEC. 7. *Be it further enacted,* That to constitute any such meeting, a number of persons entitled to a majority of all the votes which could be given upon all the shares subscribed, shall be present either in person or by proxy; and if a sufficient [number] to constitute a meeting do not attend on that day, those who do attend shall have the power to adjourn from time to time until a meeting shall be formed.

President and Directors.

SEC. 8. *Be it further enacted,* That the subscribers at the general meeting before directed, and the proprietors of stock at every annual meeting thereafter, shall elect seven directors, and the directors when appointed shall choose one of their number president, and shall continue in office, unless sooner removed, until the next annual meeting thereafter, and until their successors are appointed; but the said directors, or any of them, may at any time be removed, and the vacancy or vacancies thereby occasioned be filled by a majority of votes given at any general meeting: the president with any three or more directors, or in the event of

the absence, sickness or disability of the president, a majority of the directors may appoint one of their number president *pro tem*, who shall constitute a board for the transaction of business. In cases of vacancy in the board of directors, happening from death, resignation or otherwise, such vacancy may be supplied by the board until the next annual meeting.

SEC. 9. *Be it further enacted*, That the board of directors of said company shall be and are hereby invested with all the rights and powers necessary for the construction, repairs and maintainance of a plank road to be located as aforesaid, and with power to extend the same as far as they or a majority of them, shall think proper and may cause to be made, and also to make and construct all works which may be necessary to the completion of said road. Rights and privileges.

SEC. 10. *Be it further enacted*, That the said board of directors shall have power to make contracts with any person or persons, on behalf of the company, for making said plank road, and perform all other things respecting the same which they shall judge necessary and proper, and to require from the subscribers, from time to time, such advances of money on their respective shares as the wants of the company may demand, until the whole of their subscriptions shall be paid; to call on any emergency a general meeting of the stockholders, giving one month's notice thereof; to appoint such officers as they may deem necessary to transact the business of the company, taking from them bond and security for the faithful discharge of their several duties, and duly accounting for all moneys coming into their hands; to appoint such superintendents, managers, and toll- Contracts. Officers.

gatherers as may be necessary, and generally to transact all the business of the company between the general meetings of the stockholders.

Delinquent
stockholders.

SEC. 11. *Be it further enacted,* That if any stockholder shall fail to pay the sum required of him by the board of directors, or by a majority of them, wit in one month after the same shall have been advertised in the North Carolina Argus, or in the Gazette, published at Cheraw, S C., it shall and may be lawful for the said board of directors, or a majority of them, to sell at public auction and convey to the purchaser the share or shares of such stockholder so failing or refusing, giving one month's previous notice of the time and place of sale in manner aforesaid, and after retaining the sum due and all the charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner or his legal representative; and if the said sale shall not produce the sum required to be advanced, with all the incidental charges attending the sale, the said board of directors may recover the balance of the original proprietor or his legal representatives or assignee, by suit before any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county of Richmond; and any purchaser of the stock of said company, under a sale by order of the board of directors, shall be subject to the same rules and regulations as the original proprietors.

Lands for the
location of
road—how to
be obtained.

SEC. 12. *Be it further enacted,* That the said board of directors, their officers or agents, may agree with the owner or owners of any land over which said road is intended to pass for the purchase thereof, and, in case of disagreement, or if the owner shall be

a *feme covert*, under age, *non compos mentis*, or out of the State, on application to any two justices of the peace of the county where said lands lie, the justices shall issue their warrant to the sheriff of said county to summon eighteen freeholders to meet on the lands to be valued, on a day expressed in said warrant, not less than ten nor more than twenty days thereafter, and the sheriff, on the receipt of the warrant, shall summon the freeholders accordingly, and, when met, shall draw twelve of them, who, after being duly sworn, will impartially value the land in question and consider the damages the owner thereof may sustain, and the inquisition so taken shall be signed by the jury and countersigned by the sheriff and returned to the clerk of the county court to be recorded, and in all cases the jury are hereby required to describe the land valued, and in all cases where there is any dissatisfaction with the amount of damages assessed, the right of appeal to the county or superior courts is hereby reserved to either party, and the directors shall pay the same to the owner of the land valued, or to his legal representatives, and if neither can be found in this State, or if they refuse to receive the money, then to the clerk of the county court, and, on payment thereof, the said corporation shall be seized in fee of the land as fully and as absolutely as if it had been conveyed to them by the owner: *Provided, nevertheless*, That the dwelling-house, kitchen, yard or garden of no person shall be invaded, or any part thereof be appropriated to the use of said corporation without the consent of the owner.

SEC. 13. *Be it further enacted*, That it shall be the duty of the sheriff to give at least five days' notice in writing to the parties interested of the time and

Notice to interested parties

place of the meeting of the jurors to assess the damages as aforesaid, and that for such notice he shall be allowed a fee of seventy-five cents.

Costs.

SEC. 14. *Be it further enacted*, That all the costs incident to the condemnation of the land and the assessment of damages shall be paid by the corporation, and the two justices who may issue the warrant to the sheriff, or any other two justices of the county, after the inquisition is signed by the jury and countersigned by the sheriff, shall have power to render judgment and issue execution for said costs.

Lands for toll-houses, &c.—
how obtained.

SEC. 15. *Be it further enacted*, That said board of directors, or their agents, may agree with the proprietor or proprietors for any quantity of land which they may deem necessary for their purposes at or near each place or station intended for the collection of tolls, for the purpose of erecting the necessary buildings, gates, &c., and in case of disagreement or of any disability as aforesaid, or the owner or owners being out of the State, the same proceedings may be had, and the same conveyance shall follow as are described in the 12th section: *Provided*, That, in case of disagreement, not more than two acres of land shall be condemned to the use of said company at any one station.

Toll.

SEC. 16. *Be it further enacted*, That it shall and may be lawful for said board of directors to demand and receive at some convenient toll-gates to be by them erected, a reasonable toll from all persons using said plank road, which toll so to be collected, shall be so regulated that the profits shall not exceed twenty-five *per cent* on the capital of said company in any one year.

SEC. 17. *Be it further enacted,* That the road hereby authorized shall not be less than eight nor more than sixty feet wide, and that so soon as five miles in extent shall have been constructed it shall and may be lawful for said board of directors to demand and collect such toll from persons using said road as may be by them determined, in accordance with the rates imposed by the 16th section of this act, and in like proportion for a greater extent of road; and if any person or persons shall refuse to pay the toll at the time of offering to pass the place or places designated for the collection of tolls, and previous to passing the same, the toll-gatherers respectively may refuse a passage to the person or persons refusing to pay, and if any person or persons shall pass or drive through or pass or drive around said place any wheel carriage, or animal liable to toll without paying the same, he or they shall be liable to pay a fine of five dollars, which fine may be recovered by warrant before any justice of the peace of the county wherein such toll-gate or point of collection is situated; and if any person or persons shall drive on or use any part of said road between the points designated for the collection of tolls without paying the amount for which he or they may be liable, it shall be held that he or they are fraudulently using the same, and he, she or they shall be liable to pay a fine of five dollars which may be recovered by warrant as is hereinbefore prescribed.

Refusal to pay
toll—penalties.

SEC. 18. *Be it further enacted,* That if any person or persons shall wilfully or maliciously, or in any manner hurt, damage or obstruct, or shall wilfully or maliciously cause, aid or assist, counsel or advise any other person or persons to injure, damage or obstruct the said plank road, toll-gates or toll-houses, or any

Damage to
road, punishable.

other property or effects of said company, such person or persons so offending shall be liable to be indicted therefor, and on conviction shall be imprisoned or fined or both at the discretion of the court before which the said conviction shall take place.

Account of
proceedings.

SEC. 19. *Be it further enacted*, That distinct accounts of the proceedings receipts and disbursements of the board shall be made by them to the annual meeting of the stockholders: *Provided*, That if a number of the stockholders holding one-fourth in amount of the capital stock of said company shall ask of the board in writing, a call of a general meeting of the stockholders, such meeting shall be called, and to such meeting the board shall make a report similar in all respects to the one required to be made at the annual meetings.

Proceedings in
case of inter-
section with
other roads.

SEC. 20. *Be it further enacted*, That whenever in the construction of said road it may be necessary to cross or intersect any established road or way, it shall be the duty of the board of directors so to construct said plank road across such established road or way, as not to impede the passage or transportation of persons or property along the same, and if, in the construction of said plank road, or of any toll-gate or toll-house, it may be necessary or expedient to use any portion of any established road or way, it shall be lawful for said board of directors to change said road or way, at points where they may deem it necessary or expedient to do so; and that for entering upon or taking any land necessary therefor, they shall be and are hereby authorized to proceed under the provisions of this act, as in case of land necessary for the plank road: *Provided further*, That previous to making any such change, the said company shall prepare and make

a road equally good with the one taken or used by them; but nothing herein contained shall be so construed as to make it incumbent on said company to keep in repair the portion of any road they may have changed as aforesaid.

SEC. 21. *Be it further enacted*, That this act shall be in force from and after the ratification thereof, and shall be regarded as a public act, and shall continue in force for thirty years. Duration of
charter.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

CHAPTER CXIX.

AN ACT TO INCORPORATE THE ROBESON AND RICHMOND PLANK ROAD COMPANY.

Corporate title.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Neil McNair, Chas. Malloy, Andrew McLauchlin, Daniel McNeil, John G. Blue and Milton McIntosh, of the county of Richmond, Dr. Angus D. McLean, jr., R. McIntosh and Malcom Purcel, of the county of Robeson, and such other persons as may be hereafter associated with them, be and they are hereby created a corporation and body politic by the name and style of the Robeson and Richmond Plank Road Company, and by that name and style may acquire, hold and transfer such real, personal and mixed estate, as far as may be necessary for the purpose of constructing and managing the road herein authorized to be made, or of managing the affairs of such co. [company,] and shall have perpetual succession, and a common seal, which they shall have power to alter or renew at pleasure, and shall have and enjoy and may exercise all the powers, rights and privileges which other corporate bodies may lawfully do for the purposes mentioned in this act and may make all such by-laws, rules and regulations not inconsistent with the laws of this State or of the United States, as shall be necessary for the well-ordering and conducting of the affairs of the company, and by said name may sue and be sued, plead and be impleaded in any of the courts of this State.*

SEC. 2. *Be it further enacted,* That the capital Capital.
of said co. [company] shall not exceed forty thousand
dollars, in shares of fifty dollars each, the payment or
securing of the stock of said company to be made
under such rules and regulations as may be prescribed
by the board of directors hereinafter provided for.
The said co. [company] shall have power to construct
a plank road from Lumber Bridge, in the county of
Robeson, to or near McNair's Store, in the county of
Richmond.

SEC. 3. *Be it further enacted,* That a general General meet-
ing.
meeting of the stockholders shall be called at such time
and place as may be deemed convenient for the same
by giving notice at three of the most public places on
the line of the proposed road, giving ten days' notice
of the time and place of such meeting; that to consti- How constitu-
ted.
tute any such meeting a number of shares entitled to
a majority of votes which could be given upon all the
shares subscribed shall be present, either in person or
by proxy, and if a sufficient number to constitute a
meeting do not attend on that day, those who do at-
tend shall have the power to adjourn from time to time
until a meeting shall be formed.

SEC. 4. *Be it further enacted,* That the sub- President and
Directors.
scribers to the stock of said company, at their meeting
hereinbefore directed to be called and the proprietors
of stock at every annual meeting thereafter, shall elect
seven directors, and the directors, when appointed,
shall choose one of their number president, who shall
continue in office (unless sooner removed) until the
next annual meeting after their election, and until their
successors are elected; but said directors, or any of
them, may at any time be removed and the vacancy

thereby occasioned be filled by a majority of the votes given at any general meeting. The president, with any two or more directors, or in the event of sickness, absence or disability of the president, any four or more directors, who may [appoint] one of their number president *pro tem.*, shall constitute a board for the transaction of business. In cases of vacancy in the board of directors happening from death, resignation or otherwise, such vacancy may be supplied by appointment of the board until the next annual meeting.

Rights and
powers

SEC. 5. *Be it further enacted*, That the board of directors of said company shall be and are hereby invested with all the rights and powers necessary for the construction and repairs of the plank road herein authorized to be made, and also to make, purchase, and construct all such mills and other works as may be necessary for the construction and well ordering of said road.

Contracts.

SEC. 6. *Be it further enacted*, That the said board of directors shall have power to make contracts with any person or persons on behalf of the company for the construction of said road, and of performing of all other things respecting the same which they shall judge necessary and proper, and to require from the stockholders from time to time such advances of money on their respective shares as the wants of the company may demand, until the whole of their subscriptions shall be paid; to call in any emergency a general meeting of the stockholders, giving at least ten days' notice by advertisement at three or more public places on the line of said road; to appoint such officers as they may deem necessary to transact the business of the company, taking from them at their discretion

Officers.

bond and security for the faithful discharge of their several duties, and duly accounting for all moneys coming in their hands; to appoint such superintendents, managers, and toll-collectors as may be necessary, and generally to transact all the business of the company between the general meetings of the stockholders.

SEC. 7. *Be it further enacted*, That if any stockholder shall fail to pay the sum required by the board of directors, it shall and may be lawful for said board of directors to sell at public auction and to convey to the purchaser, the share or shares of such stockholder so failing or refusing, giving twenty days' previous notice of the time and place of sale in manner aforesaid; and after retaining the sum due and all the charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner or his legal representatives; and if the said sale shall not produce the sum required to be advanced, with all the incidental charges attending the sale, then the said board of directors may recover the balance of the original proprietor or his assignee, or of the executors or administrators, or of either of them, by suit in any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county of which he, she, or they are residents, and any purchaser of the stock of the company under sale by order of the board of directors, shall be subject to the same rules and regulations as the original proprietors.

Delinquent
Stockholders.

SEC. 8. *Be it further enacted*, That the said board of directors, their officers or agents, may agree with the owners of any land over which the said road is intended to pass, for the purchase and transfer

Lands for the
location of
road—how to
be obtained.

thereof; and in case of disagreement, or if the owners shall be *feme covert*, under age, or *non compos mentis*, or out of the State, on application to any two justices of the peace of the county where the lands lie, the justices shall issue their warrant to the sheriff of said county to summon eighteen freeholders to meet on the land to be valued, on the day expressed in the warrant, not less than ten nor more than twenty days after the date thereof, and the sheriff, on the receipt of the warrant, shall summon the freeholders accordingly, and when met shall draw twelve of them, who, after being duly sworn, shall impartially value the land in question, and consider the damages, if any, the owner may sustain, and in arriving at such damages, the jury shall take in consideration the increased value of the land by the construction of the road, as well as the other circumstances; and the inquisition so taken shall be signed by the jury and countersigned by the sheriff, and returned to the clerk of the county court to be recorded, and in all cases the jury shall describe the land valued, and such valuation shall be conclusive, and the said board of directors shall pay the same to the owner of the land valued, or his legal representatives, and if neither can be found in the county, or if they refuse to receive the money, then to the clerk of the county court, and on payment thereof the said corporation shall be seized in fee of the land as fully and absolutely as if it had been conveyed to them by the owner.

Land for toll-
houses—how
obtained.

SEC. 9. *Be it further enacted*, That the said board of directors or their agents may agree with the proprietor or proprietors for any quantity of land they may deem necessary for their purposes at or near each station or place intended for the collection of tolls, for

the purpose of erecting the necessary buildings, &c., intended for the purposes of the company, and in case of disagreement or disability as aforesaid, the same proceedings be had and the same conveyance follow as are prescribed in the preceding section: *Provided*, That in cases of disagreement not more than five acres of land shall be condemned for the use of the company at any one station.

SEC. 10. *Be it further enacted*, That as soon as any portion of said road may have been completed, it shall be lawful for said board of directors to demand and receive toll on the same in such manner as they may direct: *Provided*, The tolls collected shall not exceed twenty-five per cent. of profit in any one year. Toll.

SEC. 11. *Be it further enacted*, That if any person or persons shall refuse to pay the toll at the time of offering to pass a point designated for the collection of tolls, and previous to passing the same the toll-collector may refuse a passage to the person or persons refusing to pay, and if any person or persons forcibly or fraudulently pass any point designated for the collection of toll on said road without having paid the legal toll, and any and every person who to avoid paying the legal toll, shall, with his team, carriage or horse turn off of said road, or pass around said point for the collection of toll without paying the same, he, she or they shall pay a fine of five dollars to be recovered by warrant before any justice of the peace in the county wherein such point of collection shall be situated. Penalty of refusal to pay toll.

SEC. 12. *Be it further enacted*, That if any persons shall wilfully or maliciously injure, damage or obstruct, or shall wilfully or maliciously cause, aid or Damage to road punishable.

procure any other person or persons to injure, damage or obstruct the said plank road, toll-gate or toll-houses, or any other property of said company, such person or persons so offending shall be liable to be indicted therefor, and on conviction shall be fined or imprisoned at the discretion of the court before which said conviction shall take place, and shall be further liable for damages that may be sustained on account of such injury.

Account of
proceedings.

SEC. 13. *Be it further enacted*, That distinct accounts of the proceedings and disbursements of the board shall be made by them to the annual meetings of the stockholders.

Proceedings in
case of inter-
section with
other roads.

SEC. 14. *Be it further enacted*, That whenever in the construction of said road it may be necessary to cross or intersect any established road or way, it shall be the duty of the board of directors to construct said plank road across such established road or way as not to impede transportation on the same, and if in the construction of said plank road or of any toll-gate or toll-house it may become necessary or expedient to use or change any portion of any established road or way, it may be lawful for the board of directors to change the said road or roads at points where they may deem it necessary or expedient, and for entering upon or taking any land thereof, they shall be and are hereby authorized to proceed under the provisions of this act as in case of land necessary for a plank road: *Provided*, That previous to any such change the said company shall make an equally good road as the one proposed to be taken, but that nothing herein contained shall be so construed as to make it incumbent on said company to keep in repair the portion of the road which may have been changed as aforesaid.

SEC. 15. *Be it further enacted*, That this act shall be in force from and after the ratification thereof, shall be regarded as a public act, and continue in force forty years. Duration of
charter.

[Read three times and ratified in General Assembly
this 27th day of December, A. D., 1852.]

CHAPTER CXX.

AN ACT TO INCORPORATE THE RUTHERFORD AND CLEAVELAND PLANK ROAD COMPANY.

Books to be
opened.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That it shall be lawful to open books in the town of Rutherford under the direction of W. W. Miller, Robert S. Twitty, A. G. Logan, J. V. Jay and James M. Webb or any two of them; in the town of Shelby under the direction of W. H. Miller, Thomas Williams, A. R. Holmsby, C. C. Durham and John M—— or any two of them; in Lincolnton under the direction of L. E. Thompson, C. C. Henderson, B. S. Johnson and Robert Williams, or any two of them; in Charlotte under the direction of W. W. Elms, Henry B. Williams, William Myers, Leroy Springs, or any two of them; and at such other places and under the direction of such other persons, as the commissioners hereinbefore named to superintend the receiving of subscriptions in the town of Rutherfordton shall direct for the purpose of securing subscriptions to an amount not exceeding two hundred thousand dollars in shares of fifty dollars each, for the purpose of effecting a communication by means of a plank road from the town of Charlotte to the town of Asheville, by the most practical [practicable] rout to be determined by the said company after the same shall have been formed, said road to pass through the towns of Shelby and Rutherfordton.*

SEC. 2. *Be it further enacted,* That the times and places of securing subscriptions shall be advertised in one or more newspapers printed in the towns of Charlotte, Lincolnton, Rutherfordton and Asheville, and the books for receiving the same shall not be closed in less than thirty days, and the said commissioners shall have power to open the books from time to time as they may think proper, until the whole number of shares be subscribed. Advertisement of times and places.

SEC. 3. *Be it further enacted,* That when the sum of twenty-five thousand dollars shall be subscribed for in manner aforesaid, the subscribers, their executors administrators or assigns, shall be and they are hereby declared to be incorporated into a company by the name and style of "The Rutherford and Cleaveland Plank Road Company," and by that name shall be capable in law of purchasing, holding, selling, leasing and conveying estates, real, personal and mixed, so far as shall be necessary for the purpose of said company, and shall have perpetual succession, and by said corporate name may sue and be sued, and may have a common seal, which they shall have power to alter and renew at pleasure, and shall have and enjoy, and may exercise all the powers, rights and privileges which other corporate bodies may lawfully do, for the purpose mentioned in this act, and may make all such by-laws, rules and regulations, not inconsistent with the laws of this State, or of the United States, as shall be necessary for the well-ordering and conducting the affairs of said company. Corporate title.

SEC. 4. *Be it further enacted,* That upon any subscription of stock as aforesaid there shall be paid at the time of subscribing to the said commissioners, or Payments.

their agents, appointed to secure such subscription, the sum of one dollar on every share subscribed, and the residue thereof shall be paid in such instalments and at such times as may be required by the president and directors of said company.

Moneys.

SEC. 5. *Be it further enacted*, That the said commissioners, or their agents, shall further, after the first election of president and directors of the company, pay over to the said president and directors all moneys received by them, and, in failure thereof, the said president and directors may recover the amount due from them, or from any one or more of them, by legal process in the court of pleas and quarter sessions, or in the superior court of law in any county wherein such commissioner or commissioners, their executors or administrators, may reside, or by warrant before a justice of the peace for said county.

General meeting.

SEC. 6. *Be it further enacted*, That when _____ shall have been subscribed, public notice of that event shall be given by the said commissioners at Rutherfordton, who shall have power at the same time to call a general meeting of the stockholders at such convenient place and time as they shall name in said notice.

How constituted.

SEC. 7. *Be it further enacted*, That to constitute any such meeting a number of persons entitled to a majority of all the votes which could be given upon all the shares subscribed shall be present, either in person or by proxy, and if a sufficient number to constitute a meeting do not attend on that day, those who attend shall have the power to adjourn from time to time until a meeting shall be formed.

SEC. 8. *Be it further enacted,* That the subscribers, at their general meeting before directed and the proprietors of stock at every annual meeting thereafter, shall elect a president and nine directors, who shall continue in office, unless sooner removed, until the next annual meeting after their election and until their successors shall be elected; but the said president and directors, or any of them, may at any time be removed and the vacancy thereby occasioned be filled by a majority of the votes given at any general meeting. The president, with any three or more of the directors, or in the event of the sickness and absence or disability of the president, any five or more of the directors may appoint any one of their own body president *pro tem.*, shall constitute a board for the transaction of business. In case of vacancy in the office of president or any director, happening from death, resignation or otherwise, such vacancy may be supplied by the appointment of the board until the next annual meeting.

President and
Directors.

SEC. 9. *Be it further enacted,* That the president and directors of said company shall be, and they are hereby invested with all the rights and powers necessary for the construction, repairs and maintaining said plank road to be located as aforesaid, with as many branches diverging from the main stem as they or a majority of them may deem necessary and may cause to be made, and also to make and construct all works whatsoever which may be necessary and expedient in order to the proper completion of the said road and all its branches.

Rights and
powers.

SEC. 10. *Be it further enacted,* That the said president and directors shall have power to make such contracts with any person or persons in behalf of the

Contracts.

company for making the said plank road, together with any branches of the same, and performing all other things respecting the same, which they shall judge necessary and proper; and to require from the subscribers from time to time such advances of money on their respective shares, as the wants of the company may demand until the whole of their subscriptions shall be advanced; to call on any emergency a general meeting of the stockholders, giving one month's notice thereof in one of the newspapers printed in each of the towns of Rutherfordton, Lincolnton, Asheville and Charlotte; to appoint a treasurer from among the stockholders (but not of their own body) who shall give bond and security for the faithful discharge of his duty and duly accounting for all the money which may come into his hands as treasurer; to appoint a clerk and such managers and toll-gatherers as they may deem necessary, and to transact all the business of the company during the intervals between the general meetings of the stockholders.

Officers.

Delinquent
stockholders.

SEC. 11. *Be it further enacted*, That if any stockholder shall fail to pay the sum required of him by the president and directors or by a majority of them, within one month after the same shall have been advertised in one of the newspapers printed in each of the towns of Rutherfordton, Lincolnton, Asheville and Charlotte, it shall and may be lawful for the president and directors or a majority of them to sell at public auction and convey to the purchaser the share or shares of such stockholder so failing or refusing, giving one month's previous notice of the time and place of sale in manner aforesaid, and after retaining the sum due and all the charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner or

to his legal representatives, and if the said sale shall not produce the sum required to be advanced with all the incidental charges attending the sale, then the president and directors may recover the balance of the original proprietor or his assignee or the executor or administrator of either of them by suit in any court of record having jurisdiction thereof by warrant by any justice of the peace of the county of which he is a resident; and any purchaser of the stock of the company under the sale by the president and directors shall be subject to the same rules and regulations as the original proprietor.

SEC. 12. *Be it further enacted*, That if the capital stock of the company hereby incorporated shall be found insufficient for the purpose of this act, it shall and may be lawful for the president and directors of the said company, or a majority of them, from time to time to increase the said capital stock to an amount not exceeding three hundred thousand dollars, by the addition of as many shares as they may deem necessary for it, giving the individual stockholders for the time being, or their legal representatives, the option of taking such additional shares in proportion to the amount of stock respectively held by them, and opening books in the towns of Rutherfordton and Lincolnton, and such other places as the president and directors may think proper, for any balance of the capital stock created which may not be taken by the stockholders for the time being, or in their behalf, and the subscribers for such additional shares of the capital stock in the said company are hereby declared to be thenceforward incorporated with the said company, with all the privileges and advantages, and subject to all the liabilities, of the original stockholders.

Increase of
capital stock.

Lands for location of road—
how obtained.

SEC. 13. *Be it further enacted,* That the president and directors, their officers or agents, may agree with the owners of any land over which the said road or any of its branches is intended to pass, for the purchase thereof, and in case of disagreement, or if the owners may be *feme covert*, under age, or *non compos*, or out of the State, on application to any two justices of the peace of the county where the lands lie, the justices shall issue their warrant to the sheriff of said county, to summon eighteen freeholders to meet on the land to be valued, on a day expressed in said warrant, no less than ten nor more than twenty days thereafter, and the sheriff, on the receipt of the warrant, shall summon the freeholders accordingly, and when met shall draw twelve of them, who, after being duly sworn, will impartially value the land in question, and consider the damages the owners thereof may sustain, and the inquisition so taken shall be signed by the sheriff and the jury, and returned to the clerk of the county court to be recorded; and in all cases the jury is hereby directed to describe the land valued, and such valuation shall be conclusive, and the president and directors shall pay the sum to the owner of the land valued, or his legal representatives, and if neither can be found in the State, or if they shall refuse to receive the money, then to the clerk of the county court, and on payment thereof the said corporation shall be seized in fee of the land as fully and absolutely as if it had been conveyed to them by the owner.

Land for Toll-house, &c.,
how to be obtained.

SEC. 14. *Be it further enacted,* That the president and directors may agree with the proprietor or proprietors for any quantity of land not exceeding five acres, at or near each place or station intended for

collecting tolls, for the purpose of erecting the necessary buildings, gates, &c., and, in case of disagreement, or if [of] any of the disabilities aforesaid, or the owner or owners being out of the State, the same proceedings may be had and the same conveyance shall follow as are described in the preceding section.

SEC. 15. *Be it further enacted*, That it shall and Toll. may be lawful for the said president and directors to demand and receive, at some convenient toll-gates to be by them erected, a reasonable toll from all persons using said plank road, or any of its branches, which toll, so to be collected, shall be so regulated that the profits shall not exceed twenty per cent. on the capital of said company in any one year.

SEC. 16. *Be it further enacted*, That the said Width of road. road hereby authorized to be made by the president and directors, shall not be less than ten feet nor more than thirty feet wide, and that so soon as ten miles in extent shall have been constructed, it shall and may be lawful for the president and directors of said company to erect a toll-gate and collect such tolls from persons using said road as may be determined by the president and directors in accordance with the rates imposed by the fifteenth section of this act, and in like proportion for a greater extent of road, and if any person or persons shall refuse to pay the toll at the time of offering to pass the place or places designated for the collection, and previous to passing the same, the toll-gatherers may respectively refuse a passage to the person or persons so refusing to pay, and if any person or persons shall pass or drive through any vehicle, carriage or animal liable to toll without paying the same, he or she shall be liable to a fine of five dollars, which fine

may be recovered by warrant before any justice of the peace of the county wherein such toll-gate may be situate.

Damage to
road, &c., pun-
ishable.

SEC. 17. *Be it further enacted*, That if any person or persons shall wilfully or maliciously injure or in any manner hurt, damage or obstruct, or shall wilfully or maliciously cause or aid, or assist, or counsel and advise any other person or persons to injure, hurt, damage or obstruct the said plank road, toll-gates or toll-houses, such person or persons so offending shall be liable to be indicted therefor, and, on conviction, shall be imprisoned or fined at the discretion of the court before which said conviction shall take place.

Account of
proceedings.

SEC. 18. *Be it further enacted*, That the president and directors shall render distinct accounts of their proceedings and disbursements of money to the annual meetings of the stockholders and to the governor of the State.

Proceedings in
case of inter-
section.

SEC. 19. *Be it further enacted*, That whenever in the construction of said plank road it shall be necessary to cross or intersect any established road or way, it shall be the duty of the president and directors so to construct the said plank road across such established roads or ways as not to impede the passage or transportation of persons or property along the same; and if, in the construction of said plank road, it may become necessary or expedient to occupy or use any portion of any established passable road or way, it may be lawful for the president and directors to change the said road at points where they may deem it necessary so to do, and for entering upon or taking

any land that may be necessary therefor, they shall be and are hereby authorized to proceed under the provisions of this act, as in the case of land necessary for the plank road: *Provided, further,* That previous to the making of any such change, the said company shall make and prepare a road equally good with the portion of the road proposed to be substituted [taken;] but nothing herein contained shall be so construed as to make it incumbent on the company to keep in repair the portion of any road which they may have changed as aforesaid.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

CHAPTER CXXI.

AN ACT TO INCORPORATE THE SALISBURY MOCKSVILLE, AND WILKESBORO' PLANK ROAD COMPANY.

Books to be
opened.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That books be opened at Salisbury by Charles Fisher, W. Murphy and Joseph Chambers; at Mocksville by John A. Lillington, T. M. Young and N. N. Fleming; at Hamptonville by Josiah Cowles, Alford Martin and J. N. Carter; at Wilkesboro' by James Calloway, A. W. Finley and R. H. Hackett, and at such other places and by such other persons as the commissioners at Salisbury and Wilkesboro' may appoint to receive subscriptions to an amount not exceeding one hundred thousand dollars, in shares of one hundred dollars each, to construct a plank road from such point upon the Salisbury and Taylorsville plank road, as the company may select by way of Mocksville, in the county of Davie, and thence by such route as said company may select to the town of Wilkesboro', in Wilkes county.

And kept open
from time to
time.

SEC. 2. *Be it further enacted,* That said commissioners shall open books from time to time as they may think proper, until the whole number of shares be subscribed.

Corporate title.

SEC. 3. *Be it further enacted,* That when ten thousand dollars shall be subscribed for, the subscribers shall be incorporated by the name of the "Salisbury and Wilkesboro' Plank Road Company."

SEC. 4. *Be it further enacted,* That upon any Payments.
subscription there shall be paid at the time of subscribing the sum of one dollar on every share subscribed, and the residue thereof shall be paid in such instalments, and at such times as may be required by the president and directors of said company.

SEC. 5. *Be it further enacted,* That the said com- Money.
missioners shall pay over to the president and directors all money received by them.

SEC. 6. *Be it further enacted,* That when ten General meet-
thousand dollars shall have been subscribed, public ing.
notice of it shall be given by the said commissioners at Salisbury, who shall then have power to call a general meeting of the stockholders at such convenient place and time as they shall name.

SEC. 7. *Be it further enacted,* That to make any How constitu-
such meeting, persons entitled to a majority of all the ted.
votes, which could be given upon all the shares subscribed, shall be present by person or by proxy, and such a number not attending on that day, those who do attend may adjourn from day to day or time to time, until a meeting shall be formed.

SEC. 8. *Be it further enacted,* That the subscrib- President and
ers at their general meeting, and the proprietors of stock Directors.
at every annual meeting thereafter, shall elect a president and seven directors, who shall hold office until the next annual meeting after their election and until their successors shall be elected.

SEC. 9. *Be it further enacted,* That the presi- Vacancies.
dent with any three or more of the directors shall constitute a board to do business; in the event of the sick-

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ness and absence or disability of the president any three or more of the directors may appoint any one of their own body president *pro tem*: in cases of vacancy in the office of president or any director, such vacancy may be supplied by an appointment by the board, which appointment shall continue until the next annual meeting.

Rights and
powers.

SEC. 10. *Be it further enacted*, That the president and directors shall be invested with all rights and powers necessary for the making and maintaining of a plank road to be located as aforesaid, and may cause to be made all works necessary to the proper completion of said road.

Contracts.

SEC. 11. *Be it further enacted*, That the president and directors may make contracts with any person on behalf of the company; on any emergency they may call a general meeting of the stockholders, giving one month's notice thereof, in any newspaper convenient. They may appoint a treasurer from among the stockholders (but not of their own body,) who shall give bond and security for the faithful discharge of his duty, also a clerk and such other agents as may be necessary, and they may transact all the business of the company during the intervals between the general meetings.

Officers.

Delinquent
Stockholders.

SEC. 12. *Be it further enacted*, That if any stockholder shall fail to pay the sum required of him within one month after the same shall have been advertised in some convenient newspaper, the president and directors may sell at public auction and convey to the purchaser, the shares of such stockholder, giving one month's previous notice of the time and places of

sale in manner aforesaid, and after retaining the sum due and all charges of the sale out of the proceeds thereof, pay the surplus over to the former owner, and if the said sale shall not produce the sum required, with all incidental charges attending the sale, the president and directors may recover the balance by suit or warrant.

SEC. 13. *Be it further enacted*, That the president and directors may agree with the owners of land over which the road is intended to pass, for the purchase thereof, and in case of disagreement, or if the owners shall be *feme covert*, under age, *non compos*, or out of the State, on application to any two justices of the peace for the county within which the land lies, they shall issue their warrant to the sheriff of said county to summon eighteen freeholders to meet on the land to be valued, on a day expressed in said warrant, not less than ten nor more [than] twenty days thereafter, and the sheriff shall summon the freeholders accordingly, and when met shall draw twelve of them, who, after being duly sworn thereto, shall impartially value the land in question, and consider the damages the owner thereof may sustain, and the inquisition so taken shall be signed by the sheriff and the jury, and returned to the clerk of the county court to be recorded; and in all cases the jury is hereby directed to describe the land valued, and the president and directors shall pay the sum to the owner of the land valued; and if he cannot be found in this State, or shall refuse to receive the money, then to the clerk of the county court, and on payment thereof, the said land shall vest in the company so long as the same shall be used for a plank road: *Provided*, That the dwelling house, kitchen, yard, or garden of no person shall be invaded,

Lands for the
location of
road.

or any part thereof appropriated to the use of said corporation without the consent of the owner: *Provided, further*, That an appeal may be taken from the valuation by the jury hereinbefore mentioned, to be prosecuted in the same courts and under the same rules that now regulate appeals from judgments of justices of the peace.

SEC. 14. *Be it further enacted*, That the board may agree with the owner for any quantity of land not exceeding two acres, at or near each station intended for collecting tolls, and in case of disagreement, or of any disabilities aforesaid, or the owner or owners being out of the State, the same proceedings may be had as described in the preceding section.

Toll.

SEC. 15. *Be it further enacted*, That the board may demand and receive at convenient gates a reasonable toll from all persons using said road, which toll shall be regulated so that the profits shall not exceed twenty per cent. on the capital of said company in any one year.

Width of road.

SEC. 16. *Be it further enacted*, That the said road shall not be less than eight nor more than sixty feet wide: so soon as ten miles in extent shall have been constructed the president and directors may erect a toll-gate, and if any person shall refuse to pay the toll at the time of offering to pass the place designated for its collection, and previously to passing the same, the toll-gatherer may refuse a passage to him refusing to pay; and if any person shall pass or drive through any wheeled carriage, or animal liable to toll, without paying the same, he or she shall be liable to a fine of five dollars, which fine may be recovered by warrant

before any justice of the peace for the county in which the gate is erected.

SEC. 17. *Be it further enacted*, That any person wilfully or maliciously damaging or obstructing, or wilfully or maliciously causing, aiding or counseling any other person to damage or obstruct the said road, toll-gates or toll-houses, shall be liable to be indicted therefor as a misdemeanor. Damage to road, punishable.

SEC. 18. *Be it further enacted*, That the board shall render accounts of their proceedings to the annual meetings of the stockholders. Account of proceedings.

SEC. 19. *Be it further enacted*, That whenever said road shall cross any established road or way, the president and directors shall so construct the said plank road as not to impede the passage along the said established road, and if it be necessary or expedient to use any portion of any established public road or way, it may be lawful for the board to change said road at points where they may deem it necessary; and that for entering upon or taking any land necessary therefor, they are authorized to proceed under the provisions of this act, [as] in the case of land necessary for the plank road; *Provided*, That previously to making any such change, the said company shall make a road equally good, with the portion for which it is substituted; but it shall not be incumbent upon said company to keep in repair the portion of any road which they may have changed as aforesaid. Intersection with other roads—proceedings in such case.

SEC. 20. *Be it further enacted*, That any number of the stockholders, holding one-fourth of the stock, by a request in writing to the board, may cause a gen- Report.

eral meeting to be called, and to such meeting the board shall make a report similar in all respects to the one required to be made at annual meetings.

Branches.

SEC. 21. *Be it further enacted,* That the board may cause to be constructed as many branches of plank roads diverging from the main stem hereinbefore mentioned, as they shall judge necessary and proper, and for the construction, maintenance and government of such branches, they are hereby invested with all the rights and authority already conferred respecting the said main stem.

[Read three times and ratified in General Assembly, this 22d day of December, A. D., 1852.]

CHAPTER CXXII.

AN ACT TO ALTER AND AMEND AN ACT PASSED BY THE GENERAL ASSEMBLY AT THE SESSION OF 1850-51, ENTITLED "AN ACT TO INCORPORATE THE SALISBURY AND TAYLORSVILLE PLANK ROAD COMPANY."

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and be it hereby enacted by the authority of the same,* That the capital stock of the said company may be increased by subscription one hundred thousand dollars. Increase of capital stock.

SEC. 2. *Be it further enacted,* That the stockholders of said company at any general meeting which may be held shall have full power and authority to extend their said plank road in any direction from the town of Salisbury they may deem it expedient to do so. Direction.

SEC. 3. *Be it further enacted,* That said company shall have the same right to condemn the lands of individuals for the extension of their said road that they now possess in building their road from Salisbury to Taylorsville. Power to condemn lands.

[Read three times and ratified in General Assembly this 27th day of December, A. D., 1852.]

CHAPTER CXXIII.

AN ACT TO INCORPORATE THE SPARTANBURG AND RUTHERFORD[TON] PLANK ROAD COMPANY.

Books to be
opened.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful to open books in the town of Rutherford[ton] under the direction of William H. Miller, Samuel Wilkins, Dr. John McIntire, Gen. E. Brean, H. D. Carier, Gen. J. G. Bynum, J. M. Webb, William Shipp, T. Davis, R. G. Twitty, Dr. Thomas Duffy and Spencer Evans, or any three of them; and in the town of Marion under the direction of W. S. Gill, A. Heggins, John H. Whitson, Al. Burgin, W. McCarson, C. P. Davis and Dr. L. A. Erwin, or any three of them; and in the town of Asheville under the direction of John Reynolds, J. M. Smith, M. Patton, William D. Rankin, A. T. Summey, J. W. Woodfin, J. M. Edney, J. B. Sawyer, or any three of them; and in the town of Spartanburg under the direction ———; in the town of Shelby under the direction of John R. Logan, Dr. Thomas Williams A. W. Benton, William Greene, William Homesley, or any three of them; and in the town of Burnsville under the direction of A. P. Pendham, J. McElroy, Joseph Shepperd, J. W. Gouland, and John Stradley, or any three of them; in Waynesville under the direction of W. Wealch, W. Johnson, Samuel Fitzgerald, E. B. Heron, John S. Smith and A. T. Murray, or any three of them; in the town of Franklin under the direction of Jacob T. Moore, Dr. H. G. Woodfin, Dr. R. Lowery, Steven Munday and N. G. Almon, or any

three of them; in the town of Morganton under the direction of W. W. Avery, William Avery, T. G. Walton, B. S. Gaither, or any three of them; and at any other place for the purpose of raising stock to an amount not exceeding one hundred thousand dollars in shares of fifty dollars each.

SEC. 2. *Be it further enacted*, That the times and places for receiving subscriptions for stock in said company, shall be advertised in one or more newspapers printed in the towns of Rutherfordton and Spartanburg, and the books shall not be closed in less than forty days, and the said commissioners shall have power, or a majority of them, to open books from time to time until the whole number of shares be subscribed.

And to be kept open if necessary.

SEC. 3. *Be it further enacted*, That when the sum of fifteen thousand dollars shall have been subscribed in manner aforesaid, the subscribers, their executors, administrators or assigns, shall have and they are hereby declared to be incorporated into a company by the name and style of the "Spartanburg and Rutherford[ton] Plank Road Company," and by that name shall be capable in law of purchasing, holding, selling, leasing and conveying estates, real, personal and mixed, so far as shall be necessary for the purposes of said company, and shall have perpetual succession, and by said corporate name may sue and be sued, and may have a common seal, which they shall have power to alter and renew at pleasure, and shall have and enjoy and may exercise all the powers, rights and privileges that other corporate bodies may lawfully do, for the purpose mentioned in this act, and may make all such by-laws, rules and regulations not inconsistent with the laws of this State or of the United States as shall be neces-

Corporate title.

sary for the well ordering and conducting the affairs of said company.

Payments.

SEC. 4. *Be it further enacted,* That upon any subscription of stock as aforesaid there shall be paid, at the time of subscribing to the said commissioners, or their agents, appointed to secure such subscription, the sum of one dollar on every share subscribed, and the residue thereof shall be paid in such instalments and at such time as may be required by the president and directors of said company.

Disposition of moneys.

SEC. 5. *Be it further enacted,* That the said commissioners, or their agents, shall forthwith, after the first election of president and directors of the company, pay over to the said president and directors all moneys secured by them, and, on failure thereof, the said president and directors may secure the amount or amounts due from them, or any one of them, by suit in the corporate name of the company before any court or justice of the peace having jurisdiction of such amount.

General meeting.

SEC. 6. *Be it further enacted,* That when fifteen thousand dollars shall have been subscribed, public notice of that event shall be given by the said commissioners at Rutherfordton, who shall have power at the same time to call a general meeting of the stockholders at such time and place as they shall appoint.

How constituted.

SEC. 7. *Be it further enacted,* That to constitute any such meeting a majority of all the shares subscribed shall be represented in person or by proxy, and if a sufficient number of subscribers do not attend on that day, those who attend may adjourn from time to time until a majority of the stock is represented.

SEC. 8. *Be it further enacted*, That the subscribers, at the general meeting before directed, and the proprietors of stock at any annual meeting thereafter, shall elect a president and nine directors, who shall continue in office, unless sooner removed, until the next annual meeting after their election, and until their successors are elected; but the said president and directors, or any of them, may at any time be removed and the vacancy thereby occasioned be filled by a majority of votes given at any general meeting. The president, with any three or more of the directors, shall constitute a board to transact business, or in the event of sickness, absence or disability of the president, any five or more of the directors may appoint any one of their own body president *pro tem.* who, together with said directors, shall constitute a board to transact business. In cases of vacancy in the office of president, or any director happening by death, removal or otherwise, such vacancy shall be supplied by the appointment of the board until the next annual meeting.

President and
Directors.

SEC. 9. *Be it further enacted*, That the president and directors of said company shall be and they are hereby invested with all the rights and powers necessary for the construction, and repairs, and maintaining of a plank road to be located as aforesaid, with as many branches diverging from the main stem as they or a majority of them may deem necessary, and may cause to be made all works whatsoever which may be necessary and expedient for the proper completion of said road and its branches.

Rights, &c.

SEC. 10. *Be it further enacted*, That the said president and directors shall have power to make contracts with any person or persons on behalf of the

Contracts.

company, for making said plank road, together with any branches of the same, and performing all other things respecting the same which they shall judge necessary and proper, and to require from the subscribers from time to time such advances of money on their respective shares as the wants of the company may demand, until the whole of their subscription shall be paid in; to call on any emergency a general meeting of the stockholders, giving one month's notice thereof in any of the papers printed in Rutherfordton or Spartanburg; to appoint a treasurer from amongst the stockholders, who shall give bond and security for the faithful performance of his duty, and duly accounting for all the moneys coming into his hands as treasurer; to appoint a clerk and such managers and toll-gatherers as they may deem necessary, and to transact all the business of the company during the intervals between the general meetings of the stockholders.

Delinquent
stockholders.

SEC. 11. *Be it further enacted,* That if any stockholder shall fail to pay the sum required of him or her by the president and directors, within one month of the time fixed by them for the payment thereof, and of which call notice shall be given in one of the newspapers published in Rutherfordton or Spartanburg, it shall and may be lawful for the president and directors to sue for and recover the same in any court, or if the sum be less than one hundred dollars, before any justice of the peace, or they may sell at public auction and convey to the purchaser the share or shares of such delinquent subscriber, or his assignee, first giving one month's notice in one of the newspapers published at Rutherfordton, of said sale, and after retaining the sum due and all the charges of the sale

out of the proceeds thereof, to pay the surplus, if any, to the former owner, or his or her personal representative; and if such sale shall not produce the sum due and the expenses attending the sale thereof, the said company may recover the residue thereof by suit in any court, or before any justice of the peace having jurisdiction thereof, against such subscriber, or his assignee, or the legal representatives of either of them; and any purchaser of the stock at such sale, or other purchaser of stock in said company, shall be subject to the same rules, liabilities, and regulations as the original subscribers.

SEC. 12. *Be it further enacted*, That if the capital stock of the company hereby incorporated shall be found insufficient for all the purposes of this act, it shall and may be lawful for the president and directors of said company or a majority of them from time to time to increase the capital stock to an amount not exceeding two hundred and fifty thousand dollars, by the addition of as many shares as they may deem necessary, first giving the individual stockholders for the time being, or their legal representatives the option of taking such additional shares in proportion to the amount of stock respectively held by them; and if a sufficient amount should not be taken by the stockholders, it shall be lawful for said president and directors to have books opened at such time and places, [and] under the direction of such person or persons as they may appoint to receive subscription of stock to make up the remaining shares not taken by the stockholders as aforesaid, and may re-open books for that purpose until the whole amount of stock created by this section and their order or resolution shall have been subscribed, and the subscribers for such addition-

Increase of
capital.

al shares of the capital stock are hereby declared to be thenceforward incorporated into the said company, with all the privileges and advantages, and subject to all the liabilities of the original stockholders.

Direction of
road,

SEC. 13. *Be it further enacted*, That it shall be competent for said company at any time within three years from the first organization to determine whether they will extend the said plank road to Asheville or Marion or Morganton, these three, or to places by such routes as they may afterwards determine, and the entering of such resolution on their books, and give notice thereof in any newspaper published in Rutherfordton, Asheville or Marion shall be sufficient evidence of their determination to do so, and shall vest in said company all the rights, powers and privileges for making, keeping and using said road from Rutherfordton to Asheville or Marion or to both places as are herein given to and vested in them for making that portion south of Rutherfordton.

State of South
Carolina.

SEC. 14. *Be it further enacted*, That provided the State of South Carolina shall grant a charter of like provisions with this act, then the said plank road company shall have corporate existence in this State and in South Carolina as one company, unless the stockholders in North Carolina shall prefer a separate existence and so determine at their first meeting, and in that event, or if the State of South Carolina fails, at the next term of her Legislature, or the Legislature of 1853 and '54, to concur in this or a similar charter, then it shall be competent to make their road to such point on the South Carolina line as they shall determine.

SEC. 15. *Be it further enacted*, That the president and directors, their agents or officers, may agree with the owner or owners of any land over which the road may be intended to pass, or any of its branches, for the purposes thereof, and, in case of disagreement, or if the owner shall be *feme covert*, infant, or *non compos*, or out of the State, on application to any two justices of the peace in the county where the lands are situated, the justices shall issue their warrant to the sheriff of such county to summon eighteen freeholders to meet on the land to be valued, on a day to be expressed in said warrant, not less than ten nor more than twenty days thereafter, and the sheriff, on the receipt of the warrant, shall summon the freeholders accordingly, and, when met, shall draw twelve of them, who, after being duly sworn by the sheriff, (which he is hereby authorized to do,) shall impartially value the land in question and assess the damage the owner or owners thereof may sustain, and the inquisition thus taken shall be signed by the sheriff and jury and returned to the clerk of the county court of the county to be recorded; and any sheriff or juror who shall neglect or refuse to comply with this section, shall forfeit and pay to said company ten dollars, to be recovered by warrant before any justice of the peace, unless he can render sufficient excuse for such failure; and the jury shall in all cases declare [describe] the land valued, and shall take into consideration the advantages to said land, as well as the injury in making the improvement, and such valuation shall be conclusive, and the president and directors shall pay the same to the owner of the land valued, or his legal representative on demand, and in case of failure therein, may be sued therefor before any justice of the peace if the same shall not exceed one hundred dollars, and no stay of execution shall be allowed,

Lands for location of road—
how obtained.

and if the sum exceed one hundred dollars, the same may be recovered in any court having jurisdiction of actions of debt; but if the owner or owners of such land cannot be found or should refuse to receive the money, then the same shall be paid to the clerk of the county court of said county for the use of such owner, and on payment thereof, the said corporation shall be seized in fee of said land as fully as if it had been conveyed to them by the owner or owners.

Lands for toll-houses, &c.—how to be obtained.

SEC. 16. *Be it further enacted*, That the president and directors may agree with the proprietor or proprietors of any lands, at or near the station intended for collection of tolls, for the purpose of erecting the necessary buildings, gates, &c.; in case of disagreement or of any disability as aforesaid, or absence from the State of the owner or owners, the same proceedings may be had, and the same conveyances shall follow as are prescribed in the preceding section; but in that event not more than one acre of land shall be condemned and conveyed.

Meeting of stockholders—how regulated.

SEC. 17. *Be it further enacted*, That in all general and other meetings of the stockholders, the voting shall be regulated by the number of shares, each share entitling the member to one vote; *Provided, however*, that no stockholder shall give more than fifty votes, unless the company, at any general meeting, shall determine by vote of a majority of all the stock subscribed to change the scale of voting, but they shall have power by such vote to determine their own rule of voting.

Toll.

SEC. 18. *Be it further enacted*, That it shall and may be lawful for the said president and directors to demand and receive, at some convenient toll gates to

be by them erected, as they shall judge most advantageous, a reasonable toll from all persons using said plank road or any of its branches, which toll so to be collected on persons and property passing on said road, shall be so regulated that the profits shall not exceed twenty-five per cent. on the capital stock in said company in any one year, clear of expenses and outlay, and provided that no one shall be required to pay toll at any gate within four miles of his or her residence.

SEC. 19. *Be it further enacted,* That the said Width of road.
road hereby directed to be made, shall not be less than eight feet in width, at least eight feet of earth road adjoining, and to be used as a part thereof, and that the whole road shall not be more than thirty feet wide, and that no part of said road shall be made steeper than one foot in ——— feet, and that as soon as ten miles in extent shall have been constructed, it shall and may be lawful for the president and directors of said company to erect a toll-gate and collect such tolls from persons using said road as may be determined by the president and directors in accordance with the provisions of the 18th section of this act, and in like proportion for a greater extent of said road; and if any person or persons shall refuse to pay the toll at the time of offering to pass the place or places designated for collecting the tolls, and previous to passing the same, the toll-gatherers respectively may refuse a passage to the person or persons so refusing to pay; and if any person or persons shall pass or drive through or around such gates any wheeled carriage or animal liable to toll, without paying the same, he or they shall be liable to a fine of five dollars for each and every such offence, to be collected before any justice of the

peace, together with the tolls due ; all in the name and to the use of said company.

Injury to road,
&c., made
punishable.

SEC. 20. *Be it further enacted*, That if any person or persons shall wilfully or maliciously injure, or in any manner hurt, damage, or obstruct, or shall wilfully or maliciously cause, order, [or] counsel any other person to injure or obstruct the said plank road, toll-gates, or toll-houses, such person or persons so offending shall be liable to be indicted therefor, and on conviction shall be fined or imprisoned at the discretion of the court before whom the conviction shall be had.

Account of
proceedings.

SEC. 21. *Be it further enacted*, That the president and directors shall report a full and clear account of their proceedings and disbursements to the annual meeting of the stockholders, and the president, with the concurrence of three directors, or, in the absence of the president, a majority of all the directors may call a meeting of the stockholders at any time.

Proceedings in
case of inter-
section.

SEC. 22. *Be it further enacted*, That when in the construction of said plank road, it shall become necessary to cross or intersect any public road, it shall be the duty of the president and directors so to construct said plank road across such public and established road, as not to impede or obstruct the travel along such public road; and if in the construction of said plank road it shall become necessary or expedient to use or occupy any portion of said road, it shall be lawful for the president and directors to change or alter such public road at such places where they deem it necessary to do so; and that for entering on and taking any land that may be necessary therefor, they shall

be, and are hereby authorized to proceed under the provisions of this act as in cases of condemning land for the use of the plank road, and the said plank road company shall prepare another road equally good, or as nearly so as practicable, before they use or occupy any public road, but shall not be bound to keep the same in order.

SEC. 23. *Be it further enacted*, That this act shall be in force from and after its ratification, and shall be regarded as a public act, and the road hereby authorized to be built shall be a public highway.

[Read three times and ratified in General Assembly, this 21st day of December, A. D., 1852.]

CHAPTER CXXIV.

AN ACT TO INCORPORATE THE SWIFT CREEK PLANK ROAD COMPANY.

Corporate title.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That William C. Whitford, John Jackson, Samuel R. Stouts, Nathan Whitford and Church Chapman, together with such persons as may hereafter be associated with them, their successors and assigns, be and are hereby created a corporation and body politic, by the name and style of the "Swift Creek Plank Road Company," and by [that] name may, for the special purposes of said corporation hereinafter set forth, acquire, possess and transfer estates, real and personal; shall have perpetual succession and a common seal; shall make all such by-laws and regulations, not inconsistent with the laws of this State or of the United States, which may be necessary for the well-ordering the affairs of said company; and by said name may sue and be sued, implead and be impleaded in the courts of this State.

Capital stock.

SEC. 2. *Be it further enacted,* That the capital stock of said company shall not exceed fifty thousand dollars, in shares of fifty dollars each, to be paid and secured as may be provided for under such rules as may be prescribed by the directors hereinafter provided for.

Width of road.

SEC. 3. *Be it further enacted,* That the said company shall have power to construct a plank road from Swift Creek Bridge, in the county of Craven, to any

point on the Raleigh and Greeneville Plank Road; and the said plank road shall be not less than eight nor more than sixty feet wide.

SEC. 4. *Be it further enacted*, That when the sum of ten thousand dollars [shall] be subscribed, a general meeting of the stockholders may be called, after public notice thereof of twenty days; that to constitute a quorum for the transaction of any business a majority of the number of shares subscribed shall be represented, either by person or by proxy, and a quorum not being present, said meeting may adjourn from day to day until a quorum be present; that the stockholders at said meeting and at every annual meeting thereafter shall elect five directors, which said directors shall elect one of their number president, who, said president and directors, shall continue in office until the next annual meeting after their appointment and until their successors shall be appointed. The president, with three or more of the directors, or in case of the absence of the president, any four of said directors, who may appoint a president *pro tempore*, shall constitute a board for the transaction of business. All vacancies in the board of directors may, until the next regular meeting of the stockholders, be filled by the directors.

SEC. 5. *Be it further enacted*, That the board of directors shall have power to contract with any person or persons for the construction of said plank road, and to erect saw-mills and do all other acts which may be necessary and proper, in the construction of said road; they may call on the stockholders from time to time for such advances as the wants of the company may require, until the whole of said stock is paid in; they

shall have power to call a general meeting of the stockholders, giving twenty days' notice thereof; they may appoint such officers as may be necessary to conduct the affairs of said company at their discretion, taking bond and sureties for the faithful performance of their duties, and they shall generally transact all the business of the corporation between the several meetings of the stockholders.

Delinquent
stockholders.

SEC. 6. *Be it further enacted*, That if any subscriber shall fail to pay the sum required of him by the directors, it shall be lawful for the board of directors to sell at public sale the share or shares of said subscribers so refusing, giving twenty days' previous notice of the time and place of said sale, and after retaining the sum due, and all the charges of said sale out of the proceeds thereof, to pay the surplus to the former owner or to his legal representative, and if said sale shall not produce the sum due on the stock subscribed for, with all the incidental charges, then said board may, in any of the courts of this State, having jurisdiction of the same, recover the balance of the original subscriber or his assigns, or of their legal representatives; and any purchaser of said stock, under the said sale, shall be subject to the same rules and regulations as the original proprietor.

Lands for loca-
tion of road—
how obtained.

SEC. 7. *Be it further enacted*, That the board of directors, or their agents, may agree for the purchase of any land necessary for the location of said road, or of the toll-houses, or other necessary ware houses, &c., and in case of disagreement, or the owner of the land is a *feme covert*, *infant*, or a person *non compos mentis*, or out of the State, on application to any two justices of the peace of the county where

the land lies, [they] shall issue a warrant to the sheriff of the county to summon eighteen freeholders to view the land to be valued, on the day expressed in said warrant, said day to be not less than ten days or more than twenty from the date of the issuing said warrant, and when the said freeholders shall be assembled as aforesaid, twelve shall be drawn by the sheriff, who, after being duly sworn, shall impartially value the land to be condemned, and assess the damages, if any, the owner thereof may sustain, and the verdict so rendered shall be signed by the said jury, and countersigned by the sheriff, and returned to the clerk of the county court to be recorded, and in all cases it shall be the duty of the said jury to describe the land valued, and if either party is dissatisfied with the amount of damages assessed, they may appeal to either the county or superior court, under the same rules as now regulate appeals from judgments of justices of the peace, and on the payment of the value [so] as aforesaid to the owner of said land, or in case of his or her refusal to receive the same, or be absent from the State, on the payment thereof into the office of said clerk of [the] county court by the said board of directors, the said corporation shall be seized in fee of said land: *Provided*, That no portion of the dwelling house, yard, kitchen, or garden shall be condemned to the use of said corporation without the owner's consent, nor more than two acres of land at any one place for the location of a depot or any other purpose.

SEC. 8. *Be it further enacted*, That it shall be Toll.
lawful for said board of directors, as soon as five miles of said road shall be completed, at toll-gates to receive and demand a reasonable toll from all persons using said road; and if any person shall refuse to pay the

toll before passing the place designated for the receipt of tolls, the toll-gatherer may refuse a passage to such persons so refusing to pay, and if any person shall forcibly or fraudulently pass any toll-gate erected on said road without having paid the legal toll, he or she shall pay a fine of five dollars, to be recovered by warrant before any justice of the peace of any county where such force or fraud may be practised, for the use of said company.

Damage to
road made
punishable.

SEC. 9. *Be it further enacted*, That if any person or persons shall wilfully or maliciously injure, hurt, damage or obstruct, or shall wilfully or maliciously cause or advise any person to injure, hurt, damage, or obstruct the said plank road, toll-gate, or toll-houses or any other property or effects of said company, such person or persons so offending, shall be liable to be indicted therefor, and on conviction, shall be fined or imprisoned at the discretion of the court before which said conviction shall take place : *Provided*, said fine shall not exceed the sum of one hundred dollars or said imprisonment the space of one year.

Proceedings in
case of inter-
section with
other roads.

SEC. 10. *Be it further enacted*, That whenever in the construction of said plank road, it shall be necessary to cross any of the public highways of the State, said plank road shall be so constructed as not to obstruct or impede the passage along said public highway ; and whenever they may deem it necessary or expedient, the said company is authorized to change or alter the direction of any such public highway, and for the taking or appropriating any land for this purpose, they shall proceed under the provisions of this act as in case the said land should be necessary for the plank road : *Provided*, That in making such change,

the company shall prepare a road equally as good as the road for which it is to be substituted, but this company shall not be compelled to keep in repair the road as changed.

SEC. 11. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly this 27th day of December, A. D., 1852.]

CHAPTER CXXV.

**AN ACT TO INCORPORATE THE TARBOROUGH AND
ENDFIELD PLANK ROAD COMPANY.**

Books to be
opened.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful to open books in the town of Tarborough under the direction of John S. Dancy, James M. Redmond and Hugh B. Bryan, and at Endfield under the direction of Reddin Pitman, L. H. B. Whitaker and Benjamin Burnett, and at such other places, and under the direction of such other persons as the commissioners hereinbefore named shall direct, for the purpose of receiving subscriptions to an amount not exceeding forty thousand dollars, in shares of twenty-five dollars each, for the purpose of effecting a communication by means of a plank road between Tarborough and Endfield, by the most practicable route, to be determined by the said company after it shall have been formed.

And kept open
from time to
time.

SEC. 2. *Be it further enacted,* That the times and places for receiving subscriptions shall be advertised in one or more paper published in the State, and the books for receiving the same shall not be closed in less than thirty days, and the said commissioners shall have power from time to time to open books as they may think proper, until the whole number of shares be subscribed.

Corporate title.

SEC. 3. *Be it further enacted,* That when the sum of fifteen thousand dollars shall be subscribed for in manner aforesaid, the subscribers, their executors,

administrators or assigns shall be, and they are hereby declared to be incorporated into a company by the name and style of the "Tarborough and Enfield Plank Road Company," and by that name shall be capable in law of purchasing, holding, leasing, selling and conveying estates, real, personal and mixed, so far as may be necessary for the purposes of said company, and shall have perpetual succession, and by said corporate name may sue and be sued, and may have a common seal, which they shall have power to renew and alter at pleasure, and shall have and enjoy, and may exercise all the powers, rights and privileges which other corporate bodies may lawfully do, for the purposes mentioned in this act, and may make all such by-laws, rules and regulations, not inconsistent with the laws of this State, or of the United States, as shall be necessary for the well-ordering or conducting the affairs of said company.

SEC. 4. *Be it further enacted,* That upon the subscription of stock as aforesaid there shall be paid, at the time of subscribing to the said commissioners, or their agents, appointed to receive subscriptions, the sum of two dollars on every share subscribed, and the residue thereof shall be paid in such instalments and at such times as may be required by the president and directors of said company. Payments.

SEC. 5. *Be it further enacted,* That the said commissioners, or their agents, shall further, after the first election of president and directors of the company, pay over to the president and directors all moneys received by them, and, in failure thereof, the said president and directors may receive [recover] the amount due from them, or from any one or more of them, by Disposition of moneys.

legal process in the courts of pleas and quarter sessions, or the superior court of law, in any county wherein such commissioner or commissioners, their executors or administrators, may reside, or by warrant before a justice of the peace of said county.

General meet-
ing.

SEC. 6. *Be it further enacted*, That when fifteen thousand dollars have been subscribed, public notice of that event shall be given by the said commissioners, who shall have power at the same time to call a general meeting of the stockholders, to be held at Tarborough, at such time as they shall name in said notice.

How constitu-
ted.

SEC. 7. *Be it further enacted*, That to constitute any such meeting, a number of persons entitled to a majority of the shares subscribed shall be present, either in person or by proxy, and if a sufficient number to constitute a meeting do not attend on that day, those who attend shall have power to adjourn from time to time until a meeting shall be formed.

President and
Directors.

SEC. 8. *Be it further enacted*, That the subscribers, at their general meeting before directed, and the proprietors of stock at every annual meeting thereafter, shall elect a president and five directors, who shall continue in office until their successors shall be elected, and in case of the death or resignation of either the president or any director, the vacancy occasioned thereby may be filled by the appointment of the board until the next annual meeting; and the president and directors shall call a general meeting whenever the owners of one fourth of the stock may desire.

SEC. 9. *Be it further enacted,* That the president and directors of said company shall be, and they are hereby invested with all the rights and powers necessary for the construction, repairs and maintaining of a plank road to be located as aforesaid, with as many branches diverging from the main stem as they or a majority of them may deem necessary, and may cause to be made, and also to make and construct all works whatsoever which may be necessary and expedient in order to the proper completion of said road and all its branches.

SEC. 10. *Be it further enacted,* That the said president and directors shall have power to make contracts with any person or persons on behalf of the company for making the said plank road, together with any branches of the same, and performing all other things respecting the same, which they shall judge necessary and proper, and to require from the subscribers from time to time such advances of money on their respective shares, as the wants of the company may demand, until the whole of their subscription shall be advanced; to call on any emergency a general meeting of the stockholders, giving one month's notice thereof in one or more papers published in the State; to appoint a treasurer from among the stockholders (but not of their own body) who shall give bond and security for the faithful discharge of his duty, and duly accounting for all moneys which may come into his hands as treasurer; to appoint a clerk and such managers and toll-gatherers as they may deem necessary, and to transact all the business of the company during the intervals between the general meetings of the stockholders.

Delinquent
Stockholders.

SEC. 11. *Be it further enacted,* That if any stockholder shall fail to pay the sum required of him by the president and directors, or by a majority of them, within one month after the same shall have been advertised in one or more papers of the State, it shall and may be lawful for the president and directors, or a majority of them, to sell at public auction and to convey to the purchaser the share or shares of such stockholders so failing or refusing, giving one month's previous notice of the time and place of the sale, in manner aforesaid, and after retaining the sum due, and all the charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner, or to his legal representatives; and if the said sale shall not produce the sum required to be advanced with all the incidental charges attending the sale, then the president and directors may recover the balance of the original proprietors or his assignee or the executors or administrators of either of them by suit, in any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county of which he is a resident; and any purchaser of the stock of the company under the sale by the president and directors, shall be subject to the same rules and regulations as the original proprietors.

Increase of
capital stock.

SEC. 12. *Be it further enacted,* That if the capital stock of the company hereby incorporated shall be found insufficient for the purposes of this act, it shall and may be lawful for the president and directors of the said company, or a majority of them, from time to time to increase the capital stock to an amount not exceeding sixty thousand dollars, by the addition of as many shares as they may deem necessary, first giving the stockholders for the time being, or their legal re-

presentatives, the option of taking such additional shares in proportion to the amount of stock respectively held by them, and opening books in the places mentioned in the first section of this act, and at such other places as the president and directors may think proper, for any balance of the capital stock created which may not be taken by the stockholders for the time being, or in their behalf, and the subscribers for such additional shares of the said company are hereby declared to be thenceforward incorporated into the said company, with all the privileges and advantages, and subject to all the liabilities, of the original stockholders.

SEC. 13. *Be it further enacted,* That the president and directors, their officers or agents, may agree with the owners of any land over which the said road or any of its branches is intended to pass, for the purchase thereof, and in case of disagreement, or if the owners shall be *feme covert*, under age, or *non compos*, or out of the State, on application to any two justices of the peace of the county where the land lies, the justices shall issue their warrant to the sheriff of said county to summon eighteen freeholders to meet on the land to be valued, on a day expressed in the said warrant, not less than ten nor more than twenty days thereafter, and the sheriff, upon the receipt of the warrant, shall summon the freeholders accordingly, and when met shall draw twelve of them, who, after being duly sworn, will impartially value the land in question, and consider the damages the owner thereof may sustain; and in estimating said damages, the jury shall take into consideration the benefit which the owners may derive from said road, and the inquisition so taken shall set forth clearly the land valued, the damages

Lands for location of road—
how obtained.

assessed, and after being signed by the sheriff and jury, shall be returned to the next term of the court of pleas and quarter sessions for the county in which such lands may be situated, and be thereby confirmed and recorded. But either party, if dissatisfied with the amount of damages assessed, may appeal to the county or superior court under the rules regulating appeals from judgments of justices of the peace. The president and directors shall pay the sum to the owners of the land valued, or his [their] legal representatives, and if neither can be found in the State, or if they should refuse to receive the money, then to the clerk of the county court, and on payment thereof, the said corporation shall be seized in fee of the land as fully and absolutely as if it had been conveyed to it by the owners: *Provided*, That no portion of any dwelling house, yard, garden, kitchen, or burial ground shall be condemned without the owner's consent.

Land for Toll-house, &c., how to be obtained.

SEC. 14. *Be it further enacted*, That the president and directors may agree with the proprietor or proprietors for any quantity of land not exceeding two acres, at or near each place or station intended for collecting tolls, for the purpose of erecting the necessary buildings, gates, &c., and, in case of disagreement, or of any disabilities aforesaid, the owner or owners being out of the State, the same proceedings may be had and the same consequences [conveyances] shall follow as are prescribed in the preceding section.

Toll.

SEC. 15. *Be it further enacted*, That it shall and may be lawful for the said president and directors to demand and receive, at some convenient toll-gates to be by them erected, a reasonable toll from all per-

sons using said plank road or any of its branches, which toll, so collected, shall be so regulated that the profits shall not exceed twenty-five per cent. on the capital of said company in any one year.

SEC. 16. *Be it further enacted,* That the said Width of road. road hereby authorized to be made by the president and directors shall not be less than eight nor more than sixty [feet] wide, and that as soon as five miles in extent shall have been constructed, it shall and may be lawful for the president and directors of said company to erect a toll-gate and collect such toll from persons using said road, or any part of its branches, as may be determined upon by the president and directors, in accordance with the rates imposed by the fifteenth section of this act, and in like proportion for a greater extent of road, and if any person or persons shall refuse to pay the toll at the time of offering to pass the place or places designated for their collection, and previous to passing the same, the toll-gatherers respectively may refuse a passage to the person or persons so refusing to pay, and if any person or persons shall fraudulently pass or drive through or around said place any wheeled carriage or animal liable to toll, without paying the same, he, she or they shall be liable to a fine of five dollars before any justice of the peace of the county in which such toll-gates may be situated.

SEC. 17. *Be it further enacted,* That if any person or persons shall wilfully or maliciously injure, or Damage to road punishable. in any manner damage or obstruct, or shall wilfully or maliciously cause, or aid, or assist, or counsel and advise any other person or persons, to injure, damage or obstruct the said plank road, toll-gates or toll-houses, such person or persons so offending shall be liable to

be indicted therefor, and, on condition, [conviction] shall be imprisoned or fined, at the discretion of the court before which said conviction shall take place.

Account of
proceedings.

SEC. 18. *Be it further enacted*, That the president and directors shall render distinct accounts of their proceedings and disbursements of money to the annual meeting of the stockholders.

Proceedings in
case of inter-
section.

SEC. 19. *Be it further enacted*, That whenever in the construction of the said plank road, it shall be necessary to cross or intersect any established road or way, it shall be the duty of the president and directors so to construct the said plank road across such established roads or ways as not to impede the passage or transportation of persons or property along the same, and if in the construction of the said plank road, it may become necessary or expedient to occupy or use any portion of any established public road or way, it may be lawful for the president and directors to change the said roads at points where they may deem it necessary so to do, and that for entering upon or taking any land that may be necessary therefor, they shall be, and are hereby authorized to proceed under the provisions of this act as in cases of land necessary for the plank road: *Provided further*, That previous to the making any such change, the said company shall make and prepare a road equally good with the portion of the road proposed to be taken, but nothing herein contained shall be so construed as to make it incumbent on the company to keep in repair the portion of any road which they may have changed as aforesaid.

Mode of voting

SEC. 20. *Be it further enacted*, That the election of president and directors shall be by ballot, each stockholder having as many votes as he has shares in the

stock of said company, and the person having a majority of all the votes polled shall be considered duly elected.

SEC. 21. *Be it further enacted*, That this act shall be in force from and after the ratification thereof, and shall be regarded as a public act, and continue in force fifty years. Duration of
charter.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

CHAPTER CXXVI.

**AN ACT TO INCORPORATE THE TARBOROUGH AND
ROCKY MOUNT PLANK ROAD COMPANY.**

Books to be
opened.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful to open books in the town of Tarborough under the direction of Robert R. Bridgers, Robert H. Austin, Robert Norflet and Nathan Mathewson, and at Rocky Mount under the direction of William S. Battle, Charles C. Bonner, Malechi Weston and C. B. Killebren, and at such other places, and under the direction of such other persons as the commissioners hereinbefore named shall direct, for the purpose of receiving subscription to an amount not exceeding twenty thousand dollars, in shares of twenty-five dollars each, for the purpose of effecting a communication, by means of a plank road, between Tarborough and Rocky Mount, by the most practicable route to be determined by the said company, after it shall have been formed.

And kept open
from time to
time.

SEC. 2. *Be it further enacted,* That the times and places for receiving subscriptions shall be advertised in one or more papers published in the State; and the books for receiving the same shall not be closed in less than thirty days, and the said commissioners shall have power from time to time to open the books as they may think proper, until the whole number of shares be subscribed.

SEC. 3. *Be it further enacted,* That when the Corporate title. sum of twelve thousand, five hundred dollars shall be subscribed for, in manner aforesaid, the subscribers, their executors, administrators or assigns, shall be, and they are hereby declared to be incorporated into a company by the name and style of "The Tarborough and Rocky Mount Plank [Road] Company," and by that name shall be capable in law of purchasing, holding, leasing, selling and conveying estates, real, personal and mixed, so far as may be necessary for the purposes of said company, and shall have perpetual succession, and by said corporate name may sue and be sued, and may have a common seal, which they shall have power to renew and alter at pleasure, and shall have and enjoy, and may exercise all the powers, rights and privileges which other corporate bodies may lawfully do, for the purposes mentioned in this act, and may make all such by-laws, rules and regulations, not inconsistent with the laws of this State, or of the United States, as shall be necessary for the well-ordering or conducting the affairs of said company.

SEC. 4. *Be it further enacted,* That upon any Payments. subscription of stock as aforesaid there shall be paid, at the time of subscribing to the said commissioners, or their agents, appointed to receive such subscriptions, the sum of two dollars on every share subscribed, and the residue thereof shall be paid in such instalments and at such times as may be required by the president and directors of said company.

SEC. 5. *Be it further enacted,* That the said commissioners, or their agents, shall further, after the first election of president and directors of the company, pay over to the president and directors all moneys re- Disposition of moneys.

ceived by them, and, on failure thereof, the said president and directors may receive [recover] the amount due from them, or from any one or more of them, by legal process in the court of pleas and quarter sessions, or the superior court of law for the county of Edgecombe, or by warrant before a justice of the peace for said county.

General meeting.

SEC. 6. *Be it further enacted,* That when twelve thousand and five hundred dollars shall have been subscribed, public notice of that event shall be given by the said commissioners, who shall have power at the same time to call a general meeting of the stockholders, to be held at Tarborough at such time as they shall name in said notice.

How constituted.

SEC. 7. *Be it further enacted,* That to constitute any such meeting a number of persons entitled to a majority of the shares subscribed shall be present, either in person or by proxy, and if a sufficient number to constitute a meeting do not attend on that day, those who attend shall have power to adjourn from time to time until a meeting shall be formed.

President and Directors.

SEC. 8. *Be it further enacted,* That the subscribers, at their general meeting before directed, and the proprietors of stock at every annual meeting thereafter, shall elect a president and five directors, who shall continue in office until their successors shall be elected, and in case of the death or resignation of either the president or any director, the vacancy occasioned thereby may be filled by the appointment of the board until the next annual meeting; and the president and directors shall call a general meeting whenever the owners of one-fourth of the stock may so desire.

SEC. 9. *Be it further enacted*, That the president and directors of said company shall be and they are hereby invested with all the rights and powers necessary for the construction repairs and maintaining of a plank road to be located as aforesaid, with as many branches diverging from the main stem as they, or a majority of them may deem necessary and may cause to be made; and also to make and construct all works whatsoever which may be necessary and expedient in order to the proper completion of said road and all its branches.

SEC. 10. *Be it further enacted*, That the said president and directors shall have power to make contracts with any person or persons on behalf of the company, for making the said plank road, together with any branch of the same, and performing all other things respecting the same which they shall judge necessary and proper; and to require from the subscribers from time to time such advances of money on the respective shares as the wants of the company may demand, until the whole of their subscriptions shall be advanced; to call on any emergency a general meeting of the stockholders, giving one month's notice thereof in one or more papers published in the State; to appoint a treasurer from among the stockholders, (but not of their own body,) who shall give bond and security for the faithful discharge of his duty, and duly accounting for all moneys which may come into his hands as treasurer; to appoint a clerk and such managers and toll-gatherers as they may deem necessary, and to transact all the business of the company during the intervals between the general meetings of the stockholders.

Delinquent
Stockholders.

SEC. 11. *Be it further enacted,* That if any stockholder shall fail to pay the sum required of him by the president and directors, or by a majority of them, within one month after the same shall have been advertised in one or more papers of the State, it shall and may be lawful for the president and directors, or a majority of them, to sell at public auction and to convey to the purchaser, the share or shares of such stockholders so failing or refusing, giving one month's previous notice of the time and place of sale in manner aforesaid, and after retaining the sum due and all the charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner, or to his legal representatives; and if the said sale shall not produce the sum required to be advanced, with all the incidental charges attending the same, then the president and directors may recover the balance of the original proprietor or his assignee, or the executor or administrator, or either of them, by suit in any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county of which he is a resident; and any purchaser of the stock of the company, under the sale by the president and directors, shall be subject to the same rules and regulations as the original proprietors.

Capital stock.

SEC. 12. *Be it further enacted,* That if the capital stock of the company hereby incorporated shall be found insufficient for the purposes of this act, it shall and may be lawful for the president and directors of the said company, or a majority of them, from time to time, to increase the capital stock to an amount not exceeding thirty-five thousand dollars, by the addition of as many shares as they may deem necessary, first giving the original stockholders for the time being, or

their legal representatives, the option of taking such additional shares in proportion to the amount of stock respectively held by them, and opening books in the places mentioned in the first section of this act, and at such other places as the president and directors may think proper for any balance of the capital stock created, which may not be taken by the stockholders for the time being or in their behalf, and the subscribers for such additional shares of the capital stock in the said company, are hereby declared to be thenceforward incorporated into the said company, with all the privileges and advantages, and subject to all the liabilities of the original stockholders.

SEC. 13. *Be it further enacted*, That the president and directors, their officers or agents may agree with the owners of any land over which the said road or any of its branches is intended to pass, for the purchase thereof; and in case of disagreement, or if the owners shall be *feme covert*, under age, or *non compos* or out of the State, on application to any two justices of the peace of the county of Edgecombe, the justices shall issue their warrant to the sheriff of said county to summon eighteen freeholders to meet on the land to be valued on a day expressed in the said warrant, not less than ten nor more than twenty days thereafter, and the sheriff upon the receipt of the warrant, shall summon the freeholders accordingly, and when met shall draw twelve of them, who after being duly sworn, will impartially value the land in question, and consider the damages the owners thereof may sustain; and in estimating said damages, the jury shall take into consideration the benefit which the owners may derive from said road, and the inquisition so taken shall set forth clearly the land valued, the damages assessed,

Lands for the location of road—how to be obtained.

and after being signed by the sheriff and jury, shall be returned to the next term of the court of pleas and quarter sessions for the county of Edgecombe, and be thereby confirmed, unless it be made appear to the satisfaction of the court that great injustice has been done to one of the parties, in which case the court shall issue a writ to the sheriff to take another inquisition in manner and form as aforesaid, and return the same to the ensuing term, which if satisfactory to the court, shall be confirmed, registered and be conclusive; and the president and directors shall pay the sum to the owner of the land valued, or his legal representatives; and if neither can be found in the State, or if they should refuse to receive the money, then to the clerk of the county court, and on payment thereof, the said corporation shall be seized in fee of the land as fully and absolutely as if it had been conveyed to it by the owner.

Lands for toll-
houses.

SEC. 14. *Be it further enacted*, That the president and directors may agree with the proprietor or proprietors for any quantity of land, not exceeding five acres, at or near each place or station intended for collecting tolls, for the purpose of erecting the necessary buildings, gates, &c., and in case of disagreement or of any disabilities aforesaid, the owner or owners being out of the State, the same proceedings may be had, and the same conveyances shall follow, as are prescribed in the preceding section.

Toll.

SEC. 15. *Be it further enacted*, That it shall and may be lawful for the said president and directors to demand and receive at some convenient toll-gates, to be by them erected, a reasonable toll from all persons using said plank road, or any of its branches, which toll to be collected, shall be so regulated that the prof-

its shall not exceed twenty-five per cent on the capital of said company, in any one year.

SEC. 16. *Be it further enacted,* That the said Width of road. road hereby authorized to be made by the president and directors, shall not be less than eight nor more than thirty feet wide, and that as soon as five miles in extent shall have been constructed, it shall and may be lawful for the president and directors of said company to erect a toll-gate, and collect such toll from the persons using said road or any of its branches, as may be determined upon by the president and directors, in accordance with the rates imposed by the fifteenth section of this act, and in like proportion for a greater extent of road, and if any person or persons shall refuse to pay the toll at the time of offering to pass the place or places designated for their collection, and previous to passing the same, the toll-gatherers respectively may refuse a passage to the person or persons so refusing to pay, and if any person or persons shall fraudulently pass or drive through, or around said place any wheeled carriage or animal liable to toll, without paying the same, he or they shall be liable to a fine of five dollars, before any justice of the peace of the county of Edgecombe.

SEC. 17. *Be it further enacted,* That if any person or persons shall wilfully or maliciously injure, or in any manner damage or obstruct, or shall wilfully or maliciously cause, or aid, or assist, or counsel or advise any other person or persons to injure, damage or obstruct the said plank road, toll-gates or toll-houses, such person or persons so offending shall be liable to be indicted therefore, [therefor,] and on conviction shall be imprisoned or fined at the discretion of the court before which said conviction shall take place. Damage to road, &c., punishable.

Account of
proceedings.

SEC. 18. *Be it further enacted*, That the president and directors shall render distinct accounts of their proceedings and disbursements of money to the annual meetings of the stockholders.

Proceedings in
case of inter-
section with
other roads.

SEC. 19. *Be it further enacted*, That whenever in the construction of said plank road it shall be necessary to cross or intersect any established road or way, it shall be the duty of the president and directors so to construct the said plank road across such established roads or ways as not to impede the passage or transportation of persons or property along the same; and if in the construction of said plank road it may become necessary or expedient to occupy or use any portion of any established public road [or] ways, it may be lawful for the president and directors to change the said roads at points where they deem it necessary so to do; and that for entering upon or taking any land that may be necessary therefor, they shall be and are hereby authorized to proceed, under the provisions of this act, as in case of land necessary for the plank road: *Provided, further*, That, previous to the making any such change, [that] said company shall make and prepare a road equally good with the portion of the road proposed to be taken by the said company; but nothing herein contained shall be so construed as to make it incumbent on the said company to keep in repair the portion of any road which they may have changed as aforesaid.

Mode of voting

SEC. 20. *Be it further enacted*, That the election of president and directors shall be by ballot, each stockholder having as many votes as he has shares in the stock of said company, and the person having a majority of all the votes polled shall be considered duly elected.

SEC. 2. *Be it further enacted*, That this act ^{Duration of} ^{charter.}
[act] shall be in force from and after the ratification thereof, and shall be regarded as a public act and continue in force for fifty years.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

CHAPTER CXXVII.

**AN ACT TO INCORPORATE THE UHARIE AND YADKIN
PLANK ROAD COMPANY.**

Books to be
opened.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful to open books in the town of Salisbury under the direction of William Murphy, Burrill Roberts, Joel Jenkins, D. A. Davis, Thomas Maxwell and Isaac Kesler ; in Davidson county, under the direction of R. L. Hicks, Moses Holmes, John Miller, Benjamin Miller, W. H. Harris, Thomas Daniel, J. M. Leach, Samuel Hargrave, John Bradshaw, Abram Palmer, Joseph Spence and Col. George Smith ; in the county of Randolph, [under the direction of] Jones K. Wood, John Arnold, John Ingram, Wyatt Nance, James Thayer, Zebedee Rush, Benjamin Brookshire, N. B. Hill, Eli Branson, William Branson, Thomas Low ; in the town of Ashboro' [under the direction of] Jonathan Worth, J. M. A. Drake ; in the town of Fayetteville [under the direction of] John H. Cook, George McNeill or any two of them, at such other places as may be deemed advisable as the commissioners hereinbefore named to superintend the receiving of subscriptions in the town of Salisbury, and such other places as they may deem advisable for the purpose of receiving subscriptions to an amount not exceeding eighty thousand dollars, in shares of fifty dollars each, for the purpose of constructing a plank road from the Fayetteville and Western Plank Road, to leave the said Fayetteville and Western Plank Road some six or eight miles south of Ashboro,' running the

most practicable route to Salisbury, crossing the Yadkin River at or near Hick's Ferry, the precise route and points of said road to be determined by the company after the same shall have been formed.

SEC. 2. *Be it further enacted,* That the times and places of receiving subscriptions shall be advertised in some public newspaper published in the State, and the books for receiving the same shall not be closed within thirty days after the opening; and said commissioners shall have power to open books from time to time as they think proper, until the whole number of shares be subscribed. Advertisement of times and places.

SEC. 3. *Be it further enacted,* That when the sum of ten thousand dollars shall be subscribed for in manner aforesaid, the subscribers, their executors, administrators, and assigns, shall be and are hereby declared to be incorporated into a company by the name and style of "The Uharie and Yadkin Plank Road Company," and by that name shall be capable in law of purchasing, holding, selling, leasing, and conveying estate, real, personal, and mixed, so far as may be necessary for the purposes of said company, and shall have perpetual succession, and by said corporate name may sue and be sued, plead and be impleaded, and may have a common seal, which they shall have power to alter or renew at pleasure, and shall have and enjoy, and may exercise all the powers, rights, and privileges which other corporate bodies may lawfully do, for the purposes mentioned in this act, and may make all such by-laws, rules, and regulations, not inconsistent with the laws of this State or of the United States, as shall be necessary for the well ordering and conducting the affairs of said company. Corporate title.

Payments.

SEC. 4. *Be it further enacted*, That upon any subscriptions of stock as aforesaid there shall be paid at the time of subscribing, to the said commissioners or their agents appointed to receive such subscriptions, the sum of one dollar on every share subscribed, and the residue thereof shall be paid or secured in such manner and at such time or times as may be required by the board of directors of said company.

Disposition of moneys.

SEC. 5. *Be it further enacted*, That the said commissioners or their agents shall, forthwith, after the first election of the board of directors of the company, pay over to the said directors all moneys received by them, and on failure thereof the said directors may recover the amount due from them by legal proceess in the court of pleas and [quarter] sessions, or in the superior court of law in any county wherein such commissioners may reside, or by warrant before any justice of the peace for said county.

General meeting.

SEC. 6. *Be it further enacted*, That when the sum of ten thousand dollars shall have been subscribed, public notice of the event shall be given by said commissioners, who shall at the same time call a general meeting of the stockholders at such convenient place and time as they shall name in said notice.

How constituted.

SEC. 7. *Be it further enacted*, That to constitute any such meeting a number of persons entitled to a majority of all the votes which could be given upon all the shares subscribed, shall be present, either in person or by proxy, and if a sufficient number to constitute a meeting do not attend on that day, those who attend shall have power to adjourn from time to time until a meeting shall be formed.

SEC. 8. *Be it further enacted,* That the subscribers, at the general meeting before directed, and the proprietors of stock at every annual meeting thereafter, shall elect nine directors, and the directors, when appointed, shall choose one of their number president, who shall continue in office, unless sooner removed, until the annual meeting after their election, and until their successors shall be elected; but the said directors or any of them may at any time be removed, and the vacancy thereby occasioned to be filled by a majority of votes given at any general meeting. The president, with any three or more directors, or in the event of sickness, absence, or disability of the president, any four or more of the directors may appoint one of their number president *pro tem.*, who shall constitute a board for the transaction of business. In case of vacancy of [in] the board of directors, happening from death, resignation, or otherwise, such vacancy may be supplied by the appointment of the board until the next annual meeting.

President and
Directors.

SEC. 9. *Be it further enacted,* That the board of directors of said company shall be, and are hereby invested with all the rights and powers necessary for constructing, repairs and maintaining a plank road to be located as aforesaid, with as many branches diverging from the main stem as they or a majority of them may deem necessary and may cause to be made; and also to make and construct all works whatsoever, which may be necessary to the completion of said road and all its branches.

Rights, &c.

SEC. 10. *Be it further enacted,* That the said board of directors shall have power to make contracts with any person or persons on behalf of the company,

Contracts.

for making said plank road together with the branches of the same, which they shall judge necessary and proper, and to require from the subscribers from time to time such advances of money on their respective shares, as the wants of the company may demand, until the whole of their subscription shall be advanced; to call on any emergency a general meeting of the stockholders, giving one month's notice thereof; to appoint such officers as they may deem necessary, to transact the business of the company, taking from them bond and security for the faithful discharge of their several duties, and duly accounting for all moneys coming into their hands; to appoint such superintendents, managers and toll-gatherers as may be necessary, and generally to transact all the business of the company between the general meetings of the stockholders.

Officers.

Delinquent
stockholders.

SEC. 11. *Be it further enacted*, That if any stockholder shall fail to pay the sum required of him by the board of directors, or by a majority of them, within one month after the same shall have been advertised in some public newspaper in the State, it shall and may be lawful for said board of directors, or a majority of them, to sell at public auction and convey to the purchaser the share or shares of such stockholder so failing or refusing, giving one month's previous notice of the time and place of sale in manner aforesaid, and, after retaining the sum due and all the charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner, or to his legal representative, and if the said sale shall not produce the sum required to be advanced, with all incidental charges attending the sale, the said board of directors may recover the balance of the original proprietor, or his as-

signee, or executor or administrator, or either of them, by suit in any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county of which he is a resident, and any purchaser of the stock of the company under a sale by order of the board of directors shall be subject to the same rules and regulations as the original proprietors.

SEC. 12. *Be it further enacted*, That the said board of directors, their officers or agents, may agree with the owners of any lands over which said road, or any of its branches, is intended to pass, for the purchase thereof, and, in case of disagreement, or if the owners shall be *feme covert, under age, non compos*, or out of the State, on application to any two justices of the peace of the county where the lands lie, the justices shall issue their warrant to the sheriff of said county to summon eighteen freeholders to meet on the land to be valued, on a day expressed in the said warrant, not less than ten nor more than twenty days thereafter, and the sheriff, on the receipt of the warrant, shall summon the freeholders accordingly, and, when met, shall draw twelve of them, who, after being duly sworn, will impartially value the same in question and consider the damages the owner or owners thereof may sustain, and the inquisition so taken shall be signed by the jury and countersigned by the sheriff and returned to the clerk of the county court to be recorded, and in all cases the jury is hereby directed to describe the land valued, and such valuation shall be conclusive, and said directors shall pay the same to the owner of the land valued, or his legal representative, and if neither can be found in this State, or if the [they] refuse to receive the money, then to the clerk of the county court, and, on payment thereof, the said

Lands for location of road—
how obtained.

corporation shall be seized in fee of the land as fully and absolutely as if it had been conveyed to them by the owner: *Provided, nevertheless,* That the dwelling-house, kitchen, yard or garden, barn-yard or lot of no person shall be invaded or any part thereof appropriated to the use of said corporation without the consent of the owner.

Notice to interested parties.

SEC. 13. *Be it further enacted,* That it shall be the duty of the sheriff to give at least five days' notice in writing to the parties interested, of the time and place of the meeting of the jurors to assess damages as aforesaid, and that for such notice he shall be allowed a fee of seventy-five cents.

Costs.

SEC. 14. *Be it further enacted,* That all the costs incident to the condemnation of the land and the assessment of damages shall be paid by the corporation, and the two justices who may issue the warrant to the sheriff, or any other two justices of the county after the inquisition is signed by the jury, and countersigned by the sheriff, shall have power to render judgment and issue execution for said costs.

Land for Toll-house, &c., how to be obtained.

SEC. 15. *Be it further enacted,* That said board of directors or their agents may agree with the proprietor or proprietors for any quantity of land they may deem necessary for the [their] purposes, at or near each place or station intended for the collection of tolls, for the purpose of erecting the necessary buildings, gates, &c., and in case of disagreement, or of any disability as aforesaid, or the owner or owners being out of the State, the same proceedings may be had and the same conveyance shall follow as are described in the twelfth section: *Provided,* That in case of dis-

agreement, not more than two acres shall be condemned to the use of said company at any one station.

SEC. 16. *Be it further enacted,* That it shall and Toll.
may be lawful for said board of directors to demand and receive at some convenient toll-gates, to be by them erected, a reasonable toll from all persons using said plank road or any of its branches, which toll so to be collected, shall be so regulated that the profits shall not exceed twenty-five per cent. on the capital of said company in any one year.

SEC. 17. *Be it further enacted,* That the road Width of road.
hereby authorized shall not be less than eight nor more than sixty feet wide, and that as soon as five miles in extent shall have been constructed, it shall and may be lawful for the said board of directors to demand and collect such toll from persons using said road as may be by them determined in accordance with the rates imposed by the sixteenth section of this act, and in like proportion for a greater extent of road; and if any person or persons shall refuse to pay the toll at the time of offering to pass the place or places designated for the collection of tolls, and previous to passing the same, the toll-gatherers respectively may refuse a passage to the person or persons refusing to pay; and if any person or persons shall pass or drive through or pass or drive around said place any wheeled carriage or animal liable to toll, without paying the same, he or they shall be liable to pay a fine of five dollars, which fine may be recovered by warrant before any justice of the peace of the county wherein such toll-gates or point of collection is situated, and if any person or persons shall drive on or use any part of said road between the points designated for the collection of tolls with- Refusal to pay toll—proceedings in such case.

out paying the amount for which he or they may be liable, it shall be held that he or they are fraudulently using the same, and he, she or they shall be liable to pay a fine of five dollars which may be recovered by warrant as hereinbefore prescribed.

Damage to
road made
punishable.

SEC. 18. *Be it further enacted*, That if any person or persons shall wilfully or maliciously, or in any manner hurt, damage, or obstruct, or shall wilfully or maliciously cause, aid, or assist, counsel or advise any other person or persons to injure, hurt, damage, or obstruct the said plank road, toll-gates, or toll-houses, or any other property or effects of said company, such person or persons so offending shall be liable to be indicted therefor, and on conviction shall be imprisoned or fined at the discretion of the court before which said conviction shall take place.

Account of
proceedings.

SEC. 19. *Be it further enacted*, That distinct accounts of the proceedings and disbursements of the board shall be made by them at the annual meeting of the stockholders: *Provided*, That if a number of the stockholders holding one-fourth in amount of the capital stock of said company shall ask of the board in writing a call of a general meeting of the stockholders, such meeting shall be called, and to such meeting the board shall make a report similar in all respects to the one required to be made at annual meetings.

Proceedings in
case of inter-
section with
other roads.

SEC. 20. *Be it further enacted*, That whenever, in the construction of said road, it may be necessary to cross or intersect any established road or way, it shall be the duty of the board of directors so to construct the said plank road across such established road or way as not to impede the passage or transportation

of persons or property along the same, and if, in the construction of said plank road or any of its branches, or of any toll-gates or toll-houses, it may become necessary or expedient to use or change any portions of any established public road or way, it may be lawful for said board of directors to change the said roads at points where they may deem it necessary or expedient to do so, and that for entering upon or taking any land necessary therefor, they shall be and are hereby authorized to proceed under the provisions of this act as in case of land necessary for the plank road: *Provided, further*, That previous to making any such change, the said company shall make and prepare a road equally good with the road proposed to be substituted, [taken;] but nothing herein contained shall be so construed as to make it incumbent on said company to keep in repair the portion of any road which they may have changed as aforesaid.

SEC. 21. *Be it further enacted*, That this act shall be in force from and after the ratification thereof, and shall be regarded as a public act, and be continued in force for thirty years. Duration of
charter.

[Read three times and ratified in General Assembly
this 23d day of December, A. D., 1852.]

CHAPTER CXXVIII.

**AN ACT TO INCORPORATE THE WASHINGTON AND
TARBORO' PLANK ROAD COMPANY.**

Books to be
opened.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful to open books in the town of Washington under the direction of John Myers, Joseph Potts, Benjamin F. Havens, Benjamin F. Hanks, William H. Willard, Henry A. Elson, Howard Wiswall, William Rumley, Shadrach P. Allen, Benjamin M. Selby, jr., and David L. Perkins, and at such other places and under the direction of such other persons as the commissioners hereinbefore named shall direct, for the purpose of receiving subscriptions to an amount not exceeding two hundred thousand dollars, in shares of twenty-five dollars each, for the purpose of effecting a communication by means of a plank road from the town of Washington in the county of Beaufort to the town of Tarboro', in the county of Edgecome, or such other place as the president and directors of said company may decide upon by the most practicable route to be determined by the said company after the same shall have been formed.

Advertisement
of times and
places.

SEC. 2. *Be it further enacted,* That the times and places for receiving subscriptions shall be advertised in one more newspapers printed in the towns of Washington and Tarboro', and the books for receiving the same shall not be closed in less time than thirty days; and the said commissioners shall have power to open

books from time to time as they may think proper until the whole number of shares shall be subscribed.

SEC. 3. *Be it further enacted*, That when the Corporate title.
sum of twenty thousand dollars shall be subscribed for in manner aforesaid, the subscribers, their executors, administrators or assigns, shall be and they are hereby declared to be incorporated into a company by the name and style of "The Washington and Tarboro' Plank Road Company," and by that name shall be capable in law of purchasing, holding, selling, leasing and conveying estates, real, personal and mixed, so far as shall be necessary for the purpose of said company, and shall have perpetual succession, and by said corporate name may sue and be sued, and may have a common seal, which they shall have power to alter and renew at pleasure, and shall have and enjoy, and may exercise all the powers, rights and privileges which other corporate bodies may lawfully do, for the purposes mentioned in this act, and may make all such by-laws, rules and regulations, not inconsistent with the laws of this State, or of the United States, as shall be necessary for the well-ordering and conducting the affairs of said company.

SEC. 4. *Be it further enacted*, That upon any Payments.
subscription of stock as aforesaid, there shall be paid at the time of subscribing to the commissioners or their agents appointed to receive such subscriptions, the sum of one dollar on every share subscribed, and the residue thereof shall be paid in such instalments and at such times as may be required by the president and directors of said company.

Disposition of
moneys.

SEC. 5. *Be it further enacted,* That the said commissioners or their agents, shall further, after the first election of president and directors of the company, pay over to the said president and directors all moneys received by them, and on failure thereof, the said president and directors may recover the amount due from them, or from any one or more of them, by legal process in the court of pleas and quarter sessions, or in the superior court of law in any county wherein such commissioner or commissioners, their executors or administrators may reside, or by warrant before a justice of the peace for said county.

General meet-
ing.

SEC. 6. *Be it further enacted,* That when twenty thousand dollars shall have been subscribed, public notice of that event shall be given by the said commissioners at Washington, who shall have power at the same time to call a general meeting of the stockholders to be held at Washington at such time as they shall name in such notice.

How constitu-
ted.

SEC. 7. *Be it further enacted,* That to constitute any such meeting, a number of persons entitled to a majority of all the votes which could be given upon all the shares subscribed, shall be present either in person or by proxy, and if a sufficient number to constitute a meeting do not attend on that day, those who attend shall have power to adjourn from time to time until a meeting shall be formed.

President and
Directors.

SEC. 8. *Be it further enacted,* That the subscribers, at their general meeting before directed, and the proprietors of stock at every annual meeting thereafter, shall elect a president and nine directors, who shall continue in office, unless sooner removed, until the

next annual meeting after their election, and until their successors shall be elected ; but the said president and directors, or any of them, may at any time be removed, and the vacancy thereby occasioned be filled by a majority of the votes given at any general meeting ; the president, with any three or more of the directors, (or in the event of the sickness and absence, or disability of the president, any five or more of the directors may appoint one of their own body president *pro tem.*) shall constitute a board for the transaction of business. In case of the vacancy in the office of president or any director, happening from death, resignation or otherwise, such vacancy may be supplied by the appointment of the board, until the next annual meeting ; and it shall be the duty of the president and directors to call a general meeting at the request of the owners of one-fourth of the shares subscribed.

SEC. 9. *Be it further enacted*, That the president and directors of said company shall be, and they are hereby invested with all the rights and powers necessary for the construction, repairs and maintaining of a plank road, to be located as aforesaid, with as many branches diverging from the main stem, as they may deem necessary and may cause to be made ; and also to make and construct all works whatsoever, which may be necessary and expedient in order to the proper completion of the said road and all its branches. Rights and powers.

SEC. 10. *Be it further enacted*, That the said president and directors shall have power to make contracts with any person or persons on behalf of the company for making the said plank road, together with any branches of the same, and performing all other things respecting the same, which they shall judge necessary Contracts.

and proper, and to require from the subscribers from time to time such advances of money on their respective shares, as the wants of the company may demand, until the whole of their subscription shall be advanced; to call on any emergency a general meeting of the stockholders, giving one month's notice thereof in one of the newspapers printed in each of the towns of Washington and Tarboro'; to appoint a treasurer from among the stockholders (but not of their own body) who shall give bond and security for the faithful discharge of his duty, and duly accounting for all the moneys which may come into his hands as treasurer; to appoint such managers and toll-gatherers as they may deem necessary, and to transact all the business of the company during the intervals between the general meetings of the stockholders.

Officers.

Delinquent
stockholders.

SEC. 11. *Be it further enacted*, That if any stockholder shall fail to pay the sum required by the president and directors, within one month after the same shall have been advertised in one of the newspapers in each of the towns named in the preceding section, it shall and may be lawful for the president and directors to sell at public auction and to convey to the purchaser, the share or shares of such stockholder so failing or refusing, giving one month's previous notice of the time and place of sale in manner aforesaid, and after retaining the sum due and the charges of sale out of the proceeds thereof, to pay the surplus over to the former owner or his legal representatives; and if the said sale shall not produce the sum required to be advanced, with all the incidental charges attending the sale, then the president and directors may recover the balance of the original proprietor or his assignee, or the executor or administrators, or either of them,

by suit in any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county of which he is a resident; and any purchaser of the stock of the company under the sale by the president and directors, shall be subject to the same rules and regulations as the original proprietors.

SEC. 12. *Be it further enacted*, That if the capital stock of the company hereby incorporated shall be found insufficient for the purposes of this act, it shall and may be lawful for the president and directors of the said company from time to time to increase the said capital stock to an amount not exceeding three hundred thousand dollars, by the addition of as many shares as they may deem necessary, first giving the individual stockholders for the time being, or their legal representatives, the option of taking such additional shares in proportion to the amount of stock respectively held by them, and opening books in the places mentioned in the first section of this act, and at such other places as the president and directors may think proper, for any balance of the capital stock created which may not be taken by the stockholders for the time being, or in their behalf; and the subscribers for such additional shares of the capital stock in the said company, are hereby declared to be thenceforward incorporated into the said company, with all the privileges and advantages, and subject to all the liabilities, of the original stockholders.

Increase of
capital stock.

SEC. 13. *Be it further enacted*, That the president and directors, their officers or agents may agree with the owners of any land over which the said road or any of its branches is intended to pass, for the purchase thereof; and in case of disagreement, or if the

Lands for loca-
tion of road—
how obtained.

owner shall be *feme covert*, under age, or *non compos*, or out of the State, on application to any two justices of the peace of the county where the lands lie, the justices shall issue their warrants to the sheriff of said county to summon eighteen freeholders to meet on the land to be valued, on a day expressed in the said warrant, not less than ten nor more than twenty days thereafter, and the sheriff, on the receipt of the warrant, shall summon the freeholders accordingly, and when met shall draw twelve of them, who, after being duly sworn, will impartially value the land in question, and consider the damages the owners thereof may sustain; and the inquisition so taken shall be signed by the sheriff and jury, and returned to the clerk of the county court to be recorded; and in all cases the jury is hereby directed to describe the land valued, and such valuation shall be conclusive; and the president and directors shall pay the sum to the owners of the land valued, or their legal representatives; and if neither can be found in this State, or if they should refuse to receive the money, or be *feme covert*, under age, or *non compos*, then to the clerk of the county court, and on payment thereof, the said corporation shall be seized in fee of the land as fully and absolutely as if it had been conveyed to them by the owners.

Lands for toll-houses, &c.—how to be obtained.

SEC. 14. *Be it further enacted*, That the president and directors may agree with the proprietor or proprietors for any quantity of land necessary at or near each place or station intended for collecting tolls, for the purpose of erecting the necessary buildings, gates, &c., and, in case of disagreement, or of any disabilities aforesaid, or the owner or owners being out of the State, the same proceedings may be had and the same conveyances shall follow as are described [prescribed] in the preceding section.

SEC. 15. *Be it further enacted*, That it shall Toll. and may be lawful for the said president and directors to demand and receive, at some convenient toll-gates to be by them erected, a reasonable toll from all persons using said plank road or any of its branches, which toll, so to be collected, shall be so regulated that the profits shall not exceed twenty-five per cent. on the capital of said company in any one year.

SEC. 16. *Be it further enacted*, That the said road hereby authorized to be made by the president and directors shall not be less than eight nor more than forty feet wide, and that as soon as five miles in extent shall have been constructed, it shall and may be lawful for the president and directors of said company to erect a toll-gate and collect such toll from persons using said road, or any of its branches, as may be determined upon by the president and directors, in accordance with the rates imposed by the fifteenth section of this act, and in like proportion for a greater extent of road, and if any person or persons shall refuse to pay the toll at the time of offering to pass the place or places designated for their collection, and previous to passing the same, the toll-gatherers respectively may refuse a passage to the person or persons so refusing to pay, and if any person or persons shall fraudulently pass or drive through or pass or drive around said place any wheeled carriage or animal liable to toll, without paying the same, he or they shall be liable to a fine of five dollars, which fine may be recovered by warrant before any justice of the peace of the county wherein such toll-gate may be situated or in any other adjoining county in which the said defendant may be found, and in case the said offender should be a slave, or free person of color he may be whipped not exceeding thirty-nine lashes.

Penalty of refusal to pay toll.

Damage to
road punish-
able.

SEC. 17. *Be it further enacted*, That if any person or persons shall wilfully or maliciously injure, or in any manner damage or obstruct, or shall wilfully or maliciously cause, or aid, or assist, or counsel and advise any other person or persons, to injure, damage or obstruct the said plank road, toll-gates, toll-houses, or other real or personal property of the company or in its possession, such person or persons so offending shall be liable to be indicted therefor, and, on conviction, shall be imprisoned or fined, at the discretion of the court before which said conviction shall take place.

Account of
proceedings.

SEC. 18. *Be it further enacted*, That the president and directors shall render distinct accounts of their proceedings and disbursements of money to the annual meetings of the stockholders.

Proceedings in
case of inter-
section.

SEC. 19. *Be it further enacted*, That whenever in the construction of the said plank road, it shall be necessary to cross or intersect any established road or way, it shall be the duty of the president and directors so to construct the said plank road across such established roads or ways as not to impede the passage or transportation of persons or property along the same, and if in the construction of said plank road, it may become necessary or expedient to occupy or use any portion of any established public road or way, it may be lawful for the president and directors to change the same roads at points where they may deem it necessary so to do, and that for entering upon or taking any land that may be necessary therefor, they shall be, and are hereby authorized to proceed under the provisions of this act as in case of land necessary for the plank road: *Provided further*, That previous to the making of any such change, the said company shall make and pre-

pare a road equally good with the portion of the road proposed to be substituted [taken,] but nothing herein contained shall be so construed as to make it incumbent on the company to keep in repair the portion of any road which they may have changed as aforesaid.

SEC. 20. *Be it further enacted,* That the election of president and directors shall be by ballot, each stockholder having as many votes as he has shares in the stock of said company, and the person having a majority of all the votes polled shall be considered as duly elected. Mode of voting

SEC. 21. *Be it further enacted,* That this act shall be in force from and after the ratification thereof, and shall be regarded as a public act and continue in force for fifty years. Duration of
charter.

[Read three times and ratified in General Assembly,
this 25th day of December, A. D., 1852.]

CHAPTER CXXIX.

AN ACT TO AMEND AN ACT PASSED IN 1850-51, CHAPTER 133, ENTITLED "AN ACT TO INCORPORATE THE WESTERN PLANK ROAD COMPANY."

Toll

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That so soon as any part of the said road, not less than five miles in extent, shall be made, agreeable to the specifications contained in the 18th section of the above act, it shall be lawful for the president and directors to erect a toll-gate and collect such tolls from persons using said road regulated by the rates imposed in the 17th section of said act; and if any person or persons shall refuse to pay said toll at the time of offering to pass the place designated for the collection of toll, the toll-gatherers may refuse a passage to such person, or if any person shall travel said road and then avoid the place designated for collection of toll by taken [taking] some by-way, such person shall be liable to a fine of five dollars, which fine may be recovered by warrant before any justice of the peace of the county wherein such toll-gate may be situated.

SEC. 2. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 20th day of December, A. D., 1852.]

CHAPTER CXXX.

AN ACT TO INCORPORATE THE WINSTON AND WILKESBORO' PLANK ROAD COMPANY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful to open books in the town of Winston under the direction of Robert Gray, Harmon Miller, A. J. Stafford, Francis Fries, Edward Bets, A. J. Zevely, Darius H. Starbuck and William Flynt, or any three of them; in the town of Huntsville under the direction of Nicholas L. Williams, R. C. Puryear, Isaac Jarratt and John Clingman, or any three of them; in the town of Yadkinville under the direction of T. C. Haucer, George F. Wilson, Jonah Cowles, A. M. Martin, Ephraim Haugh and C. W. Williams, or any three of them; and in the town of Wilkesboro' under the direction of Andrew Mitchell, John Finley Sen'r., Leander Carmichal, Dr. Colloway, Litle Hickerson, Hamilton Brown, Montfort S. Stokes and James B. Gordon, or any three of them; and at such other places and under the direction of such other persons as the commissioners hereinbefore named to superintend the receiving of subscriptions in the towns of Winston and Wilkesboro' shall direct, for the purpose of receiving subscriptions to an amount not exceeding seventy-five thousand dollars, in shares of fifty dollars each, for the purpose of effecting a communication by means of a plank road from the town of Winston to the town of Wilkesboro', by the most practicable route to be determined by the said company after the same shall have been formed.

Books to be
opened.

Advertisement
of times and
places.

SEC. 2. *Be it further enacted,* That the time and places for receiving subscriptions shall be advertised in one or more newspapers published in the town of Salem, Salisbury or Greensboro', and the books for receiving the same shall not be closed in less than thirty days, and the said commissioners shall have power to open the books from time to time as they may think proper, until the whole number of shares be subscribed.

Corporate title.

SEC. 3. *Be it further enacted,* That when the sum of ten thousand dollars shall be subscribed for in manner aforesaid, the subscribers, their executors, administrators or assigns shall be, and they are hereby declared to be incorporated into a company by the name and style of the "Winston and Wilkesboro' Plank Road Company," and by that name shall be capable in law of purchasing, holding, selling, leasing and conveying estates, real, personal and mixed, so far as shall be necessary for the purposes of said company, and shall have perpetual succession, and by said corporate name may sue and be sued, and may have a common seal, which they shall have power to alter and renew at pleasure, and shall have and enjoy, and may exercise all the powers, rights and privileges, which other corporate bodies may lawfully do, and may make all such by-laws, rules and regulations not inconsistent with the laws of this State or of the United States, as shall be necessary for the well-ordering and conducting the affairs of said company.

yments.

SEC. 4. *Be it further enacted,* That upon any subscription of stock as aforesaid there shall be paid, at the time of subscribing to the said commissioners, or their agents, appointed to receive such subscriptions, the sum of one dollar on every share subscribed, and the

President and Directors.

SEC. 8. *Be it further enacted,* That the subscribers, at their general meeting before directed, and the proprietors of stock at every annual meeting thereafter, shall elect a president and nine directors, who shall continue in office, unless sooner removed until the next annual meeting after their election, and until their successors shall be elected; but the said president and directors, or any of them, may at any time be removed, and the vacancy thereby occasioned be filled by a majority of the votes given at any general meeting. The president, with any three of the directors, or in the event of the sickness, absence or disability of the president, any five or more of the directors may appoint one of their own body president *pro tem.*, shall constitute a board for the transaction of business. In cases of vacancy in the office of president or any director, happening from death, resignation or otherwise, such vacancy may be supplied by the appointment of the board until the next annual meeting.

Rights and powers.

SEC. 9. *Be it further enacted,* That the president and directors of said company shall be, and they are hereby invested with all the rights and powers necessary for the construction, repairs and maintaining of a plank road to be located as aforesaid, and may cause to be made and also to make and construct all works whatsoever which may be necessary and proper to the completion of said road.

Contracts.

SEC. 10. *Be it further enacted,* That the president and directors shall have power to make contracts with any person or persons on behalf of the company for making the said plank road and performing all other works respecting the same which they

may deem necessary and proper, and require from the subscribers from time to time so much of their subscriptions as they may judge necessary until the whole amount subscribed is advanced; to call, whenever necessary, a general meeting of the stockholders, giving ten days' notice thereof in one or more newspapers printed in Salem, Salisbury or Greensboro'; to appoint a treasurer from among the stockholders, who shall give bond and security for the faithful discharge of his duty, and duly accounting for all monies he may receive as treasurer; to appoint a clerk and such agents and toll-gatherers as they may judge necessary, and to transact all the business of the company during the intervals between the general meetings of the stockholders.

SEC. 11. *Be it further enacted,* That if any stockholder shall fail to pay the sum required of him by the president and directors or by a majority of them, within one month after the same shall have been advertised in one of the newspapers printed in each of the towns of Salem, Salisbury or Greensboro, it shall and may be lawful for the president and directors, or a majority of them, to sell at public auction, and to convey to the purchaser, the share or shares of such stockholder so failing or refusing, giving one month's previous notice of the time and place of sale in manner aforesaid, and after retaining the sum due and all the charges of the sale out of the proceeds thereof, to pay the surplus over to the former owner or to his legal representative; and if the said sale shall not produce the sum required to be advanced with all the incidental charges attending the sale, then the president and directors may recover the balance of the original proprietor or his assignee or the executor or administra-

Delinquent
Stockholders.

justice of the peace of the county of which he is a resident; and any purchaser of the stock of the company under the sale of the president and directors shall be subject to the same rules and regulations as the original proprietors.

Increase of
capital stock.

SEC. 12. *Be it further enacted,* That if the capital stock of the company hereby incorporated shall be found insufficient for the purposes of this act, it shall and may be lawful for the president and directors of the said company, or a majority of them, from time to time to increase the said capital stock to an amount not exceeding one hundred and fifty thousand dollars, by the addition of as many shares as they may deem necessary, first giving the individual stockholders for the time being or their legal representatives the option of taking such additional shares in proportion to the amount of stock respectively held by them, and opening books in the towns of Winston, Huntsville, Yadkinville and Wilkesboro', and such other places as the president and directors may think proper for any balance of the capital stock created, which may not be taken by the stockholders for the time being or in their behalf, and the subscribers for such additional shares of the capital stock in the said company are hereby declared to be thenceforward incorporated into the said company with all the privileges and advantages and subject to all the liabilities of the original stockholders.

Lands for loca-
tion of road.

SEC. 13. *Be it further enacted,* That the president and directors, their officers or agents may agree with owners of any land over which the said road is intended to pass for the purchase thereof, and in cases

of disagreement, or if the owner shall be *feme covert*, under age or *non compos*, or out of the State, on application to any two justices of the peace of the county where the land lies, the justices shall issue their warrant to the sheriff of said county to summon eight freeholders to meet on the land to be valued, on a day expressed in the said warrant, not less than ten nor more than twenty days thereafter, and the sheriff on receipt of the warrant shall summon the freeholders accordingly, and when met, shall draw twelve of them, who, after being duly sworn, will impartially value the land in question, and consider the damages the owner thereof may sustain; and the inquisition so taken shall be signed by the sheriff and the jury, and returned to the clerk of the county court to be recorded, and in all cases the jury is hereby directed to describe the land valued, and such valuation shall be conclusive, and the president and directors shall pay the sum to the owner of the land valued or his legal representatives, and if neither can be found in this State, or if they should refuse to receive the money, then to the clerk of the county court, and on payment thereof the said corporation shall be seized in fee of the land as fully and absolutely as if it had been conveyed to them by the owner.

SEC. 14. *Be it further enacted*, That the president and directors may agree with the proprietor or proprietors for any quantity of land, not exceeding five acres, at or near each place or station intended for collecting tolls, for the purpose of erecting necessary buildings, gates, &c., and in case of disagreement or of any disabilities aforesaid, or the owner or owners being out of the State, the same proceedings may be had, and the same conveyance [follow as] are described in the preceding section.

Land for toll-houses—how obtained.

Toll.

SEC. 15. *Be it further enacted,* That it shall and may be lawful for the said president and directors to demand and receive at some convenient toll-gates, to be by them erected, a reasonable toll from all persons using said plank road, which toll so to be collected, shall be so regulated that the profits shall not exceed twenty-five per cent on the capital of said company, in any one year.

Width of road.

SEC. 16. *Be it further enacted,* That the said road hereby authorized to be made by the president and directors, shall not be less than eight feet nor more than twenty-five wide, and that as soon as ten miles in extent shall have been constructed, it shall and may be lawful for the president and directors of said company to erect a toll-gate and collect such toll from persons using said road as may be determined by [the] president and directors in accordance with the rates imposed by the fifteenth section of this act, and in like proportion for a greater extent of road; and if any person or persons shall refuse to pay the toll at the time of offering to pass the place or places designated for their collection, and previous to passing the same, the toll-gatherers respectively may refuse a passage to the person or persons so refusing to pay; and if any person or persons shall pass or drive through any wheeled carriage or animal liable to toll without paying the same, he or they shall be liable to a fine of five dollars, which fine may be recovered by warrant before any justice of the peace of the county wherein said toll-gate may be situated.

Damage to
road, punish-
able.

SEC. 17. *Be it further enacted,* That if any person or persons shall wilfully or maliciously injure or in any manner hurt, damage, or obstruct, or shall wil-

fully or maliciously cause, or aid, or assist, or counsel, or advise any other person or persons to injure, hurt, damage, or obstruct the said plank road, toll-gate, or toll houses, such person or persons so offending shall be liable to be indicted therefor, and on conviction shall be imprisoned or fined at the discretion of the court before which such conviction shall take place.

SEC. 18. *Be it further enacted*, That the president and directors shall render distinct accounts of the proceedings and disbursements of moneys to the annual meetings of the stockholders. Account of proceedings.

SEC. 19. *Be it further enacted*, That whenever, in the construction of said road, it may be necessary to cross or intersect any established road or way, it shall be the duty of the board of directors so to construct the said plank road across such established road or way, as not to impede the passage or transportation of persons or property along the same. Proceedings in case of intersection with other roads.

SEC. 20. *Be it further enacted*, That this act shall be in force from and after the ratification thereof, and shall be regarded as a public act and continue in force for thirty years. Duration of charter.

[Read three times and ratified in General Assembly this 27th day of December, A. D., 1852.]

CHAPTER CXXXI.

AN ACT TO INCORPORATE THE COLLY NAVIGATION COMPANY IN BLADEN COUNTY.

Preamble.

WHEREAS, The navigation of Colly Creek in the county of Bladen would be of important public utility and many persons are willing to subscribe money to effect the work, and it is just that such subscribers, their heirs and assigns, shall receive reasonable tolls in satisfaction of the money advanced by them to execute the said work, and for the risk they run,

Books to be opened.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful to open books in the town of Elizabethtown, under the direction of James Baker, William H. White, Dr. Neill Graham, James M. White and J. G. McDugald, or any three of them; at Whitehall under the direction of James W. Russ, Dugald McMillan, Frederick J. Simpson and S. J. D. Lucas, or either of them; at the house of Willie A. Atkinson, under the direction of Willie Atkinson, Willie A. Atkinson, John G. Sutton, John A. McRay and Kiniall Johnson, or any three of them; at the house of Patrick L. Anders, under the direction of Patrick L. Anders, Samuel Anders, George W. Bannermans, Colon Shaw and Dr. William Beatty; at Beatty's Bridge, under the direction of George Crafton, Hayes W. Beatty, Enoch Hawes and C. J. Dixon, or either of them; and at such other places, and under the direction of such other persons as any three of the commissioners as hereinbefore named to superintend

lars each, for the purpose of clearing out and making navigable the said Colly Creek, for the transportation of produce by boats, rafts or other crafts.

SEC. 2. *Be it further enacted,* That the time and place for receiving subscriptions shall be advertised in one or more newspapers published in the towns of Wilmington and Fayetteville, and posted up at Elizabethtown, Whitehall and Beatty's Bridge, and the books for receiving subscriptions shall not be closed in less than twenty days; and if it shall appear that more than twenty thousand dollars of the capital stock shall have been subscribed for, within the twenty days, it shall be the duty of the said commissioners to reduce the number of shares subscribed for, among the subscribers, in fair and equal proportion to the amount of stock subscribed for respectively by each, until the whole amount of shares shall be reduced to four hundred; but if the whole amount shall not be subscribed for within twenty days from the time the books shall be opened to receive subscriptions, then the books may be closed or held open, or closed and re-opened without farther notice, as any of the commissioners aforesaid may judge to be most expedient, until the whole number of shares shall be subscribed for.

Advertisement
of times and
places a

SEC. 3. *Be it further enacted,* That when five Corporate title.
[four] hundred shares shall be subscribed for in manner aforesaid, the subscribers, their heirs, executors, administrators or assigns shall be and they are hereby declared to be incorporated into a company by the name and style of "The Colly Navigation Company,"

and by that name shall have and enjoy and may exercise all the powers, rights and privileges which other coporate bodies may lawfully do for the purpose mentioned in this act, and may make all such by-laws, rules and regulations not inconsistent with the laws of this State or of the United States, as shall be necessary for the well-ordering and conducting the affairs of said company.

Payments.

SEC. 4. *Be it further enacted*, That upon any subscription of stock as aforesaid there shall be paid, at the time of subscribing to the said commissioners, or their agents, appointed to receive such subscriptions, the sum of one dollar on every share subscribed, and the residue thereof shall be paid in such instalments and at such times as may be required by the president and directors of said company. The said commissioners, or their agents, shall forthwith, after the first election of president and directors of the company, pay over to the said president and directors all moneys received by them, and, on failure thereof, the said president and directors may recover the amount due from them, or any of them, their heirs, executors, administrators or assigns, by motion, on ten days' notice, before a justice of the peace, or in the county or superior court of Bladen county.

General meeting.

SEC. 5. *Be it further enacted*, That when five [four] hundred shares or more of the stock shall have been subscribed, public notice of that event shall be given by any three of the said commissioners, who shall have power at the same time to call a general meeting of the subscribers at such time and place as they shall name in the said notice. To constitute any such meeting a number of persons entitled to a majority of

ll the votes which could be given upon all shares subscribed, shall be present, either in person or by proxy, and if such number be not present on the day appointed for the meeting, those who do attend may adjourn from time to time until such number as aforesaid shall be present.

SEC. 6. *Be it further enacted*, That the subscribers, at their general meeting before directed, and the proprietors of stock at every annual meeting thereafter, shall elect [*elect*] a president and five directors, who shall continue in office, unless sooner removed, until the next annual meeting after their election, and until their successors shall be elected; but the president or any of the directors, [*but the president or any of the directors,*] may at any time be removed and the vacancy thereby occasioned be filled by a majority of the votes given at any general meeting. The president, with any two or more of the directors, or in case of the sickness, absence, or disability of the president, any four or more of the directors who shall appoint one of their own body president *pro tempore*, shall constitute a board for the transaction of business. In case of vacancy in the office of president or of any director, happening from death, resignation, or otherwise, such vacancy shall be supplied by appointment of the board until the next annual meeting.

President and
Directors.

SEC. 7. *Be it further enacted*, That the president and directors of said company shall be and they shall be invested with all the rights and powers necessary to clear, but and render navigable said Collyer's Creek, and after the same is cleared, to continue all works whatever necessary and expedient in order to the improvement of the same, and to pay the sum of money to his legal representative, and to produce the sum of money and incidental charges and expenses, and directors may receive the sum of money, or his assignee, or either of them, in satisfaction of the same, and the peace.

Rights and
privileges.

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and any purchaser of the stock of the company under the sale by the president and directors, shall be subject to the same rules and regulations as the original proprietors.

SEC. 10. *Be it further enacted,* That the said Lands. president and directors, their officers and servants, shall have full power and authority to enter upon all lands and tenements through which they may desire to conduct their work, and to lay out the same according to their pleasure, so that the mill house, yard or other building of no person be invaded without his consent, and they shall have power to enter on and lay out such contiguous land as they may desire to occupy as sites for depots, toll-houses, ware-houses, workshops and other buildings for the necessary accommodation of their officers, agents and servants, their horses and other cattle, and for the protection of property entrusted to their care; and if the president and directors cannot agree with the owner or owners of the land entered on and laid out by them or to the terms of purchase, it shall be lawful for them, or the owner or owners of such land to apply to the court of pleas and quarter sessions of Bladen county, and upon such application, the court shall appoint five freeholders, disinterested and impartial to assess the damage to such owner or owners from the condemnation of the lands for the purposes aforesaid, *Provided,* That no such application shall be made unless ten days' previous notice shall have been given by the applicant to the adverse party or parties, their agents or representative. The day for meeting of said freeholders to perform the duties assigned them shall be designated in the order appointing them, and as [any] one or more of them attend on the day may adjourn from time to time until

their business shall be finished. Of the five freeholders so appointed, any three or more of them may act, after being duly sworn by some justice of the peace that they will impartially and justly to the best of their ability, ascertain the damages which will be sustained by the proprietor of the land from the condemnation thereof for the use of the company, and that they will truly certify their proceedings thereupon to the court of said county.

Damages.

SEC. 11. *Be it further enacted*, That it shall be the duty of said freeholders pursuant to the order appointing them to assemble on the land proposed to be condemned, and after renewing the same and hearing such proper evidence as the parties may offer, they shall ascertain, according to their best judgment, the damages which the proprietor of the land will sustain by the condemnation thereof for the use of the company, and the freeholders shall, under their hands and seals, report in full the proceedings, certified by the justice of the peace who shall have sworn them, to the next county court of said county, and the report so returned shall be confirmed unless good cause can be shown against it, and if the court should disaffirm the report, or if the freeholders should not report or should not agree, then the court shall from time to time appoint such other or additional freeholders and make any order in the premises which to the said court may seem just.

Title to lands.

SEC. 12. *Be it further enacted*, That on the confirmation of any such report, and on the payment or tender to the proprietors of the land, the damages so assessed or the payment of the said damages into court, the [land] reviewed and so assessed as aforesaid

shall be vested in the "Colly Navigation Company," and they shall be adjudged to hold the same in fee simple in the same manner as if the proprietor had sold and conveyed it to them.

SEC. 13. *Be it further enacted*, That while these proceedings are pending for the purpose of ascertaining the damages to the proprietor for the condensation of his land, and before they shall have been instituted, the president and directors may, by themselves, their officers, agents and servants, enter upon the lands laid out by them as aforesaid, and which they desire to condemn and apply the same to the use of the company, and if the report be confirmed, the court may render judgment and order execution to issue.

Privileges of
President and
Directors.

SEC. 14. *Be it further enacted*, That in the mean time no order shall be *made* and no injunction shall be awarded by any court or judge to stay the proceedings of the company in the prosecution of their work unless it be manifested that their officers, agents and servants are transcending the authority given them by this act, and that the interposition of the court is necessary to prevent injury [not] adequately compensated for in damages.

Injunction pro-
hibited.

SEC. 15. *Be it further enacted*, That the said president and directors, for the purpose of constructing their work as aforesaid, and the works necessarily connected therewith, or of repairing the same, or for enlarging or otherwise altering the same, shall be at liberty by themselves, their agents, officers or servants at any time to enter upon any adjacent lands, under the same rules and regulations as hereinbefore provided for, in the condemnation of lands.

Further privi-
leges.

Rights of property vested in Stockholders.

SEC. 16. *Be it further enacted,* That all boats and other property purchased with the funds of the company, or engaged in the business of transportation on said Colly Creek, and all the works of the said company constructed, or property acquired under the authority of this act, and all profits which shall accrue from the same, shall be vested in the respective stockholders of the company, forever in proportion to their respective shares, and the same shall be deemed personal estate, and shall be exempt from any public charge or tax whatsoever for the term of fifty years, and thereafter the Legislature may impose a tax not exceeding five cents per annum per share on each share of the capital stock, whenever the annual profits thereof shall exceed six per cent.

Toll.

SEC. 17. *Be it further enacted,* That so soon as any portion of the Colly Creek hereby authorized may be in readiness for transportation, it shall be lawful for any person or persons to carry down said stream all manner of property he or they may or can transport, on condition that he or they shall, from time to time pay to the president and directors, or their agents, such sums of money or rates of toll as shall by them be established; and the said president and directors shall have power to charge reasonable tolls for all manner of property or produce of any kind whatsoever that may be carried on said creek, and shall be entitled to demand and receive such tolls, and for storage and delivery of produce at their depots and ware-houses.

Dividends.

SEC. 18. *Be it further enacted,* That as soon as said creek, or any part thereof, shall be made navigable, the president and directors shall annually or semi-annually declare and make such dividends as they

may deem proper, of the nett profits arising from the resources of said company, after deducting the necessary and current expenses of said company, and shall divide the same among the stockholders of said company in proportion to their respective shares.

SEC. 19. *Be it further enacted,* That an annual meeting shall be held of the stockholders of said company at such time and place in each year as the stockholders may appoint, to constitute which, or any general meeting called by the president and directors according to the provisions of this act, the presence of a majority of the votes which could be given by all the stockholders shall be necessary, in person or by proxy; and if a sufficient number do not attend on that day, or on any day appointed for such meeting, those who do attend may adjourn from time to time until a general meeting may be held. Annual meeting.

SEC. 20. *Be it further enacted,* That on counting all the votes of said company, each member shall be allowed one vote for every share not exceeding two shares, one vote for every two shares above two shares and not exceeding ten shares, and one vote for every five shares above ten shares held by him at the time in the stock of the company: *Provided,* That no stockholder shall be entitled to more than fifty votes on any amount of stock held in said company. Votes.

SEC. 21. *Be it further enacted,* That the president and directors shall render distinct accounts of their proceedings and disbursements of money to the annual meeting of the stockholders. Account of proceedings.

Provisions of
charter.

SEC. 22. *Be it further enacted*, That the works hereby required of the company shall be executed with due diligence, and if they be not commenced within three years after the passage of this act, and finished within fifteen years after the first general meeting of the stockholders, then this charter shall be forfeited.

Certificates,

SEC. 23. *Be it further enacted*, That the president and directors shall cause to be written or printed, certificates for the shares of the stock in said company, and shall deliver one such certificate, signed by the president and countersigned by the treasurer, to each person for the number of shares subscribed by him, which certificates shall be transferable by him, subject, however, to all payments due or to become due thereon, and such assignee having first caused the transfer or assignment to be entered in a book of the company kept for that purpose, shall thereon become a member of said company, and shall be liable to pay all such sums due or which shall become due upon the stock assigned to him: *Provided*, That such assignment shall in no case exempt the assignor or his representatives from the liability to the said company for the payment of all such sums, if the assignee or his representatives shall be unable or fail to pay the same.

Damage to
work punish-
able.

SEC. 24. *Be it further enacted*, That if any person or persons shall wilfully, by any means whatever injure, impair or destroy any part of the work constructed under this act or any of the works belonging to said company, or shall place any obstruction in said Colly Creek, such person or persons shall be deemed

guilty of a misdemeanor, and on conviction thereof, shall be fined or imprisoned at the discretion of the court having jurisdiction thereof.

SEC. 25. *Be it further enacted*, That no per- President.
son shall be eligible as president or director of said company unless he be a resident of Bladen county.

SEC. 26. *Be it further enacted*, That all the lands Taxes.
adjacent to said Colly Creek or which may be increased in value by reason of the clearing out of said Colly Creek shall not be taxed in proportion to such increase, but shall be held to pay the same taxes for ten years that is now levied on the same according to the last assessment of valuation.

SEC. 27. *Be it further enacted*, That the cor- Duration of
porate powers herein granted shall be in force for one charter.
hundred years and no longer, unless renewed by competent authority.

SEC. 28. *Be it further enacted*, That the presi- Engineers, &c.
dent and directors shall employ such engineers and surveyors as they may require from time to time, for the purpose of carrying on successfully said work.

SEC. 29. *Be it further enacted*, That all laws and Repeal of con-
clauses of laws coming in conflict with the true intent flicting laws.
and meaning of this act, be, and they are hereby repealed and made void.

SEC. 30. *Be it further enacted*, That this act shall be in force from and after its ratification.

Nat Moore and
White Oak
Creeks.

SEC. 31. *Be it further enacted*, That Dr. Duncan M. Buie, Jonah D. Russ and Hezekiah Bonham shall have power and authority to open books at Kelly's Cove, and it shall be lawful to open books at such other places and under the direction of such other persons as the commissioners last hereinbefore named shall direct for the purpose of receiving subscriptions to an amount not exceeding ten thousand dollars, in shares of fifty dollars each, for the purpose of clearing out and making navigable the Nat Moore Creek and the White Oak Creek or such parts of the same as the company may choose for the passage of boats, flats, rafts or such other crafts as the company may require.

Books.

SEC. 32. *And be it further enacted*, That the times and places for receiving subscriptions shall be advertised in such manner as the said last named commissioners shall direct, and the books for receiving the same shall not be closed in less than twenty days, and if it shall appear that more than two hundred shares of the capital stock aforesaid shall have been subscribed for within the said twenty days, it shall be the duty of the commissioners last hereinbefore named, to reduce the number of shares subscribed for among the subscribers in fair and equal proportions to the amount of stock subscribed respectively by each, until the whole amount of shares shall be reduced to two hundred, but if the whole amount shall not be subscribed for within the said twenty days, then the books may be closed or continued open or closed and re-opened without further notice, as the commissioners hereinbefore last named may judge to be most expedient, until the whole number of shares shall be subscribed for.

SEC. 33. *And be it further enacted,* That when five hundred shares shall be subscribed for in manner aforesaid, the subscribers, their heirs, executors, administrators and assigns, shall be and they are hereby declared to be incorporated into a company by the name and style of "The Nat Moore and White Oak Navigation Company," and by that name shall have and enjoy and exercise all the powers, rights and privileges which other corporate bodies may lawfully do, and may make all such by-laws, rules and regulations not inconsistent with the laws of this State or of the United States, as shall be necessary for the well-ordering and conducting the affairs of the company. Corporate title.

SEC. 34. *And be it further enacted,* That said "Nat Moore and White Oak Navigation Company," shall to all intents and purposes have and enjoy all the rights and privileges, and shall be subject and liable to all the restrictions in the same manner as provided in the foregoing part of this act in relation to the "Colly Navigation Company." Rights and powers.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

NAVIGATION.

CHAPTER CXXXII.

AN ACT TO INCORPORATE THE UPPER LITTLE RIVER NAVIGATION COMPANY IN THE COUNTY OF CUMBERLAND.

Corporate title.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That for the purpose of effecting a more certain navigation of the Upper Little River in the county of Cumberland, from the mouth of the said river to the county line of Moore county, the formation of a corporate company, with a capital of seventy-five thousand dollars, in shares of fifty dollars each, is hereby authorized to be called "The Upper Little River Navigation Company," and when formed in compliance with the conditions hereinafter prescribed to have a corporate existence as a body politic.

Books to be opened.

SEC. 2. *Be it further enacted,* That for the purpose of creating the capital stock of said company, it shall be lawful to open books for subscriptions thereto, in the county of Cumberland under the direction [of] Col. A. S. McNeill, Col. Kenneth Murchison, Alex'r Morrison, Neill McDugald, Dr. — McCormick, John Harrington, Dr. J. W. McKay, John McRae, William McDugald, H. McLean, Jun., Steward Pipkins and William Harrington, or a majority of them, whose duty it shall be to direct the opening of books for the subscription of stock at such times and places, and under

the direction of such persons as they, or a majority of them, may deem proper ; and the said commissioners shall have power to appoint a chairman of their own body, a treasurer and all other officers, and sue for and recover all sums of money that ought, under this act, to be recovered by them.

SEC. 3. *Be it further enacted*, That the times and places of receiving subscriptions, shall be advertised in one or more of the newspapers published in the town of Fayetteville ; and the books for receiving the same shall not be closed in less than thirty days.

Advertisement
of times and
places.

SEC. 4. *Pe it further enacted*, That when one hundred shares of said capital stock shall be subscribed for in the manner aforesaid, the subscribers, their executors, administrators, and assigns, shall be and they are hereby declared to be a body corporate by the name and style of "The Upper Little River Navigation Company," and by that name shall be capable in law of purchasing and holding, selling, leasing, and conveying estates, real, personal, and mixed, so far as shall be necessary for the purposes hereinafter mentioned, and no further, and shall have perpetual succession ; and by said corporate name may sue and be sued, and may have and use a common seal, and shall have and enjoy and may exercise all the rights, powers, and privileges of a body corporate for the purposes of this act, and may make and adopt all rules, regulations, and by-laws for the government of the affairs of said company, not inconsistent with the laws of this State or of the United States.

Capital stock.

Payments.

SEC. 5. *Be it further enacted,* That upon any subscriptions of stock aforesaid, there shall be paid at the time of subscribing, the sum of two dollars on every share subscribed for, to said commissioners or their agents, and the residue of said subscription shall be paid in such instalments and at such times as may be required by the president and directors of said company. The said commissioners shall, forthwith after the first election of president and directors of said company, pay over to the said president and directors all moneys received by them, and on failure thereof, the said president and directors may recover the amount due by them, or from any one or more of them, by motion, on ten days' previous notice, in the court of pleas and quarter sessions, or the superior court of law in any county where such commissioner or commissioners, their executors or administrators, may reside, or by warrant before a justice of the peace of said county.

General meeting.

SEC. 6. *Be it further enacted,* That when one hundred shares or more of the stock shall have been subscribed, public notice of that event shall be given by three or more of the newspapers published in Fayetteville, and the said commissioners shall then call a general meeting of the subscribers to be held at the house of Alexander McDugald, in the county of Cumberland, at such time as they may designate; that a majority of the number of shares subscribed for, represented either in person or by proxy shall constitute said meeting; and the said meeting may adjourn from day to day until a majority shall be present.

SEC. 7. *Be it further enacted*, That the subscribers at their general meeting before directed, and the proprietors of stock at every annual meeting thereafter shall elect a president and five directors, and the said president and directors shall continue in office until the next annual meeting after their election, and until their successors shall be elected. The president with any two or more of the directors, or in the event of sickness, absence or disability of the president, any three or more of the directors, who may appoint one of their own body president *pro tempore*, shall constitute a body for the transaction of business. In case of vacancy in the office of president or any director, happening from death, resignation or otherwise, such vacancy may be filled by the appointment of the board from among the stockholders, until the next annual meeting of the stockholders.

President and
Directors.

SEC. 8. *Be it further enacted*, That the president and directors of the company shall be, and they are hereby invested with all the rights and powers necessary to construct, build, continue and repair locks, dams, canals and sluices, and all other works necessary and expedient to secure and improve the navigation of the said Upper Little River, and for the proper completion of the work contemplated by this act.

Rights and
powers.

SEC. 9. *Be it further enacted*, That the said president and directors shall have power on behalf of the company to contract with any person or persons for constructing said works and continuing and repairing the same which they may judge necessary and proper, and to demand from the subscribers from time to time such advances of money on their respective shares as the wants of the company may require, until said sub-

Contracts.

scriptions are paid in full, and at any time to call a general meeting of the subscribers, when necessary, by giving one month's notice thereof in one or more newspapers printed in Fayetteville; to appoint a treasurer (not of said board) but of the members of the corporation, a clerk and such other officers as they may require, and to transact the business of the company during the intervals of the meetings of the stockholders.

Delinquent
stockholders.

SEC 10. *Be it further enacted,* That if any stockholder shall fail to pay the instalment or instalments required of him by the president and directors in section ninth, it shall and may be lawful for the president and directors, or a majority of them, to sell at public auction, on a previous notice of twenty days, for cash, all the stock subscribed for in said company by said stockholder and convey the same to the purchaser at said sale; and if said sale of stock do not produce enough to pay off the expenses of the sale and the entire amount due by such stockholder to said company for such subscription of stock, then the president and directors may recover the balance of the original proprietor or his assignee, or the executor or administrator of either of them, by suit in any court of record having jurisdiction thereof, or by a warrant before a justice of the peace of the county of which he is a resident; and any purchaser of the stock of the company under a sale by the president and directors shall be subject to the same rules and regulations as the original subscribers.

Lands.

SEC. 11. *Be it further enacted,* That the said president and directors, their officers, agents and servants, shall have full power and authority to enter

upon all lands [*and*] through or on which they may desire to conduct their works, and to lay out the same according to their pleasure, so that the mill-house, yard and other buildings of any person be not invaded without his consent, and they shall have power to enter on and lay out such contiguous land as they may desire to occupy as sites for depots, store-houses, wood-houses, toll-houses, and other buildings, for the necessary accommodation of their officers, agents and servants, and for the protection of the property of the company: *Provided*, That the land so laid out for these latter purposes, shall not exceed two acres in any one parcel. If the president and directors cannot agree with the owner or owners of the land so entered upon and laid out by them, as to the terms of purchase, they may apply to the county court of the county of Cumberland, and upon such application, the court shall appoint five impartial freeholders to assess the damages arising from the condemnation of the land for the purposes aforesaid; that ten days' [notice] of said application shall be given to the owner of the land; and its said owner being an infant or *non compos mentis* then to his guardian, if such owner or guardian is to be found in the county, or if he cannot so be found, notice of said application shall be published, at least one month, in a public newspaper in Fayetteville, before such appointment shall be made. The order appointing said freeholders shall designate a day for their meeting; and they may adjourn from day to day until their business is accomplished; of the five freeholders so appointed, any three or more of them may act, being first duly sworn or solemnly affirmed before some justice of the peace, that they will impartially and justly ascertain and assess the damages which will be sustained from the condemnation of the land by the proprietor thereof, for the

use of said company; and they will truly certify their proceedings thereof, to the county court of said county: that with the report of said freeholders shall be returned and appended thereto, a certificate of the magistrate before whom they were qualified, of such due qualification. When the said report shall be returned, unless good cause be shown at that time, the same shall be confirmed and spread upon the record; but if said report should be disaffirmed, or if the said freeholders, being unable to agree, should report their disagreement, or from any other cause, they shall fail to report within a reasonable time, the court may supersede them and appoint others in their stead. The said court of pleas and quarter sessions may, upon the confirmation of the report of said freeholders, award a judgment and execution against said company for the amount of damages so assessed; and when the said judgment shall be paid and discharged, the title for the land for which such damages are assessed, (the report of said freeholders to contain a description of said land by metes and bounds,) shall be vested in the company in the same manner as if the proprietor had sold and conveyed it to them; and the said court shall then order the report of the freeholders to be registered in the office of the county register for said county, and the same shall be read in evidence as in cases of registered deeds for the conveyance of land.

President and
Directors.

SEC. 12. *Be it further enacted,* That the said president and directors, for the purpose of constructing their work aforesaid and the works necessarily connected therewith, or of repairing the same, or of enlarging or otherwise altering the same, shall be at liberty, by themselves, officers or agents, or servants, at any time to enter upon any adjacent land nearest,

when such materials may be found, to cut, quarry, dig, take and carry away therefrom any wood, stone, gravel or earth which they may deem necessary: *Provided, however,* That they shall not, without the consent of the owner, cut down any fruit trees or any tree preserved in any lot or field, for shade or ornament, nor take any timber, gravel or stone constituting a part of any fence or building, and for all such woods, stone or gravel thus taken, the said president and directors shall pay to the owner or owners thereof a reasonable (compensation) to be by them agreed upon; and in case of their failure to agree upon the value of said articles, then the same shall be valued by three freeholders, appointed by a justice of the peace of said county, upon the application of owner thereof, after a previous notice of ten days to the other party; and, in case either party shall be dissatisfied with their determination, an appeal to the county court shall be allowed and sent up by the said justice.

SEC. 13. *Be it further enacted,* That it shall be Toll. lawful for the president and directors of said company to demand and receive at Locks erected on said Upper Little River, and at convenient toll-stations a reasonable toll from all persons passing through said locks or using said improvements which toll so to be collected, shall be so regulated that the nett profits shall not exceed twenty per cent. in any one year on the amount of capital actually expended by said company in making said improvements: *Provided,* That the rates of toll shall be uniform, and no discriminations made between the citizens of this State.

Report.

SEC. 14. *Be it further enacted*, That the president and directors of said company shall annually report to the stockholders a full account of the receipts and expenditures of said company and a general condition of its affairs.

Votes.

SEC. 15. *Be it further enacted*, That in all general meetings of the stockholders, each share of said capital stock shall be entitled to one vote, which vote may be given by the proprietor in person or by proxy, and a majority of the shares being represented shall constitute such general meetings.

SEC. 16. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

PROBATE OF DEEDS, &c.

CHAPTER CXXXIII.

AN ACT AUTHORIZING THE PROBATE OF ALL DEEDS AND BILLS OF SALE, REQUIRING REGISTRATION, BEFORE THE CLERKS OF THE COURTS OF PLEAS AND QUARTER SESSIONS AT ANY TIME.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That hereafter the clerks of the several courts of pleas and quarter sessions by themselves or their deputies, shall have authority in their respective counties to take the probate or acknowledgment of all deeds, bills of sale, marriage settlements and other marriage contracts required by law to be registered at any time in as full a manner as their respective courts can or may do: *Provided, however,* Authority granted to clerks and their deputies. *That this act shall not apply to the probate of deeds executed by *femes covert*.* Proviso.

[Read three times and ratified in General Assembly, this 20th day of November, A. D., 1852.]

PUBLIC LANDINGS, &c.

CHAPTER CXXXIV.

AN ACT TO AMEND AN ACT OF THE REVISED STATUTE, CHAPTER 59TH, ENTITLED "AN ACT FOR ESTABLISHING PUBLIC LANDINGS AND PLACES OF INSPECTION, AND FOR THE APPOINTMENT OF INSPECTORS AND REGULATION OF INSPECTIONS."

Previous act
partially
repealed.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That so much of the sixth section of the above recited act which prohibits any of the county courts of this State from appointing in any of the towns more than six inspectors, so far as its operation extends to the town of Wilmington, in this State, be and the same is hereby repealed.

Inspectors of
naval stores.

SEC. 2. *Be it further enacted,* That hereafter it shall be lawful for the court of pleas and quarter sessions for the county of New Hanover, to appoint eight or more inspectors of naval stores for the town of Wilmington, under the same rules, regulations, and restrictions as are now provided for by law; and that the said inspectors so appointed shall be subject to the same penalties for mal-practices and misbehavior in their offices as are now in force under the existing law.

Repeal of con-
flicting acts.

SEC. 3. *Be it further enacted,* That all laws and clauses of laws coming in conflict with the true intent and meaning of this act, be and the same are hereby repealed.

SEC. 4. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 6th day of November, A. D., 1852.]

CHAPTER CXXXV.

AN ACT TO AMEND AN ACT, ENTITLED AN ACT FOR ESTABLISHING PUBLIC LANDINGS AND PLACES OF INSPECTION, AND FOR THE APPOINTMENT OF INSPECTORS AND REGULATION OF INSPECTIONS.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That the 28th section of the above recited act be, and the same is hereby amended so as to read as follows. to wit: The several degrees of flour shall in future be distinguished as follows, to wit: family, superfine, fine and cross middling; and it shall be the duty of inspectors of flour, at the several places of inspection in this State, to conform their inspection, as near as may be, to the inspection of flour observed and in use in the adjacent States. Amendment
of previous act.

SEC. 2. *Be it further enacted*, That the inspectors of flour be required to brand the degrees, family, superfine, fine and cross middling, under the same rules and regulations as are now prescribed by law. Brands.

[Read three times and ratified in General Assembly this 12th day of November, A. D., 1852.]

RAILROADS.

CHAPTER CXXXVI.

AN ACT TO INCORPORATE "THE ATLANTIC AND NORTH CAROLINA RAILROAD COMPANY," AND "THE NORTH CAROLINA AND WESTERN RAILROAD COMPANY."

Capital.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That for the purpose of effecting a railroad communication from the Atlantic through the centre of the State, to meet the Tennessee line, a company shall be and the same is hereby incorporated with a capital of nine hundred thousand dollars, to be called "The Atlantic and North Carolina Railroad Company," to commence at the most eligible point on the harbour of Beaufort, Carteret county, and thence near Newbern, Trenton and Kinston, so as to strike the Raleigh and Wilmington Railroad, and to connect with the North Carolina Railroad at its terminus near the town of Goldsboro'; and there shall be and is hereby incorporated a company to be called "The North Carolina and Western Railroad Company," with a capital of three millions of dollars, to commence on the North Carolina Railroad at or near the town of Salisbury, thence the most practicable route across the Blue Ridge to the Tennessee line, which companies when formed in compliance with the conditions hereinafter prescribed, shall have a corporate existence each as a body politic for the term of ninety-nine years.

SEC. 2. *Be it further enacted*, That for the purpose of forming said capital stock of said Atlantic and North Carolina Railroad Company, the following persons be and the same are hereby appointed commissioners: Isaac Ramsey, of Carteret county; Alonzo T. Jerkins, of Newbern; Lucien S. Becton, of Jones; William C. Loftin, of Lenoir; Charles Edwards, of Greene, and Elisha Pipkin of Wayne: that it shall and may be lawful to open books in the town of Beaufort, under the direction of Richard Hall, M. F. Arendell, Capt. Duncan, Josiah F. Bill, or any three of them; at Newbern, William G. Bryan, Charles Slover, John Blackwell, John R. Justice, William H. Washington, George S. Stevenson, Moses W. Jarvis, Edward R. Stanly, Fred. P. Latham, Israel Disosway, Hardy B. Lane, Sen'r., James C. Stevenson, Henry G. Cutler, Alexander Miller, Alexander Mitchell; at Trenton, Dr. John Shackelford, C. Williams, Benj. Askew, Joseph Kincey, Sen'r., Joseph Whitly; at Kinston, Thomas Woodley, John C. Washington, Louis Desmons, Nicholas Hunter; at Goldsboro, W. S. G. Andrews, W. B. Gulick, Thomas Kennedy, William B. Edmundson, W. K. Lane; at Waynesboro', Richard Washington, Dr. Daniel Cogdale; at Smithfield, William H. Watson, William S. Ballinger, Thomas Lockhart, William H. Morning, Linn B. Sanders; at Raleigh, Romulus M. Saunders, George W. Mordecai, W. W. Holden, John H. Bryan, Edward Yarbrough, Willis Whitaker; at Jacksonville, George Ward, John M. Franks, John A. Averett, Owen Huggins; at Swansboro', David W. Sanders, R. McLane, C. B. Glover, Daniel Hargate, Elijah Fergerson, Joshua Rawk and Henry H. Harper, of Snow Hill; James Williams, Henry Beat and William A. Darden of Greene county.

Books to be
opened.

Public notice.

SEC. 3. *Be it further enacted*, That all who may hereafter be authorized to open books for subscription of stock by the commissioners herein appointed for that purpose, shall open said books at any time after the ratification of this act, twenty days' previous notice being given in some one or more of the public newspapers in this State, and that the said books, when opened, shall be kept open for the space of thirty days at least, and as long thereafter as the commissioners first above named shall direct, and that all subscriptions of stock shall be in shares of one hundred dollars, the subscriber paying at the time of making such subscription five dollars on each share thus subscribed, or by giving his promissory note for that sum to the person authorized to receive such subscription, and in case of failure to pay said sum or note, all such subscription shall be void and of no effect; and upon closing the books, all such sums or rates as shall have been thus received of subscribers on the first installment shall be paid to the commissioners named in the second section of this act by the persons receiving them, and, for failure thereof, such person or persons shall be liable to said general commissioners before the organization of said company, and to the company itself after its organization, to be recorded in the superior court of law in the county where such delinquent resides, or if he reside out of the State, then in any court of such State having competent jurisdiction. The said general commissioners shall have power to call on and require all persons empowered to receive subscription at any time and from time to time as a majority of them may think proper; to make return of the stock by them respectively received, and to make payment of all sums made by the subscribers; that all persons receiving subscriptions of stock shall pass a

receipt to the subscriber for the payment of the first instalment, as heretofore required to be paid, and upon their settlement with the general commissioners as aforesaid, it shall be the duty of the said general commissioners in like manner to pass their receipt for all sums of money thus received to the person from whom received, and such receipts shall be taken and held to be good and sufficient vouchers to the persons holding them.

SEC. 4. *Be it further enacted*, That it shall be the duty of the said general commissioners to direct and authorize the keeping open of books for the subscription of stock in the manner above described until the sum of three thousand dollars shall have been subscribed to the capital stock of said company, and that as soon as the sum of three thousand dollars shall have been subscribed and the first instalment of five dollars per share on said sum shall have been received by the general commissioners as aforesaid, said company shall be regarded as formed, and the said commissioners, or a majority of them, shall sign and seal a duplicate to that effect, with the names of the subscribers appended, and cause one of the said duplicates to be deposited in the office of the secretary of state, and thenceforth, from the closing of the books for subscription as aforesaid the said subscribers to the stock shall form a body politic and corporate in deed and in law for the purposes aforesaid by the name and style of the "Atlantic and North Carolina Railroad Company.

Books to be kept open from time to time.

SEC. 5. *Be it further enacted*, That whenever the sum of three hundred thousand dollars shall be subscribed in manner and form aforesaid, the subscribers, their executors, administrators, and assigns, shall

Corporate title.

be and they are hereby declared to be incorporated into a company by the name and style of "Atlantic and North Carolina Railroad Company;" and by that name shall be capable in law and equity of purchasing, holding, selling, leasing, and conveying estates, real, personal, and mixed, acquiring the same by gift or devise, so far as shall be necessary for the purposes embraced within the scope, object, and intent of this charter and no farther, and shall have perpetual succession, and by their corporate name may sue and be sued, plead and be impleaded in any court of law or equity in the State of North Carolina, and may use a common seal, which they may alter and renew at pleasure, and shall have and enjoy all other rights and immunities which other corporate bodies may and of right do exercise, and may make all such by-laws, rules, and regulations as are necessary for the government of the corporation, or of effecting the object for which it is created, not inconsistent with the constitution and laws of the United States and of this State.

Process.

SEC. 6. *Be it further enacted*, That notice of process upon the principal agents of said company, or the president or any of the directors thereof, shall be deemed and taken to be due and lawful notice of service of process upon the company, so as to bring it before any court within the State of North Carolina.

Meeting of
stockholders.

SEC. 7. *Be it further enacted*, That as soon as the sum of three hundred thousand dollars shall have been subscribed in manner and form aforesaid, it shall be the duty of the general commissioners appointed under the second section of this act, to appoint a time for the stockholders to meet at the town of Newberne, in Craven county, which they shall cause to be pre-

viously published for the space of thirty days, in one or more newspapers, as they may deem proper; at which time and place the said stockholders, in person or [by] proxy, shall proceed to elect the directors of the company, and to enact all such regulations and by-laws as may be necessary for the government of the corporation and the transaction of its business. The persons elected directors at this meeting shall serve such period, not exceeding one year, as the stockholders may direct and fix at this meeting. The stockholders shall fix on the day and place where the subsequent election of directors shall be held; and such elections shall henceforth be annually made; but if the day of the annual election should pass without any election of directors, the corporation shall not thereby be dissolved, but it shall be lawful on any other day to hold and make such election in such manner as may be prescribed by a by-law of the corporation.

SEC. 8. *Be it further enacted*, That the affairs of the company shall be managed and directed by a general board, to consist of eight directors, to be elected by the stockholders from among their number, at the first subsequent general annual meeting, as prescribed in the seventh section of this act, and that no one shall serve as a director who is not a stockholder.

Board of Directors.

SEC. 9. *Be it further enacted*, That the election of directors shall be by ballot, each stockholder having as many votes as he has shares in the stock of said company, and the person having a majority of all the votes polled, shall be considered as duly elected.

Mode of voting

President.

SEC. 10. *Be it further enacted*, That the president of the company shall be elected by the directors from among their own number, in such manner as the regulations of the company shall prescribe.

SEC. 11. *Be it further enacted*, That at the first general meeting of the stockholders to be called under section seventh of this act, a majority of all the shares subscribed shall be represented before proceeding to business, and if a sufficient number do not appear on the day appointed, those who do attend shall have power to adjourn from time to time, until a regular meeting shall be thus formed, and at such meeting, the stockholders may provide by a by-law as to the number of the stockholders and the amount of the stock to be held by them, which shall constitute a quorum for transacting business at all subsequent regular or called meetings of stockholders and directors.

Regulation of
votes.

SEC. 12. *Be it further enacted*, That in all elections and upon all votes taken in any general meeting of the stockholders, upon any by-law or any of the affairs of the company, each share of stock shall be entitled to one vote, and that any stockholder in said company may vote by proxy, and proxies may be verified in such manner as the stockholders by by-laws may prescribe.

Moneys.

SEC. 13. *Be it further enacted*, That the general commissioners shall make their return of the shares of stock subscribed for at the first general meeting of the stockholders, and pay over to the directors elected at said meeting, or their authorized agent, all sums of money received from subscribers, and for failure thereof, shall be liable to said company, to be recovered

at the suit of said company in any superior court of law in this State within the county where such delinquent or delinquents may reside, and in like manner from said delinquent or delinquent's executor or administrators in case of his or their death.

SEC. 14. *Be it further enacted*, That the board of directors may fill all vacancies which may occur in their body during the period for which they have been elected, and in the absence of the president, may fill his place by electing a president, *pro tem.*, from among their number.

SEC. 15. *Be it further enacted*, That all con- Contracts.
tracts or agreements authenticated by the president and secretary of the board of directors shall be binding on the company without a seal, or such a mode of authentication may be used as the company by their by-laws may adopt.

SEC. 16. *Be it further enacted*, That the com- Powers.
pany shall have power and may proceed to construct as speedily as possible a railroad with one or more tracks of the same width of the North Carolina railroad, to be used with steam power, which shall extend from the most practicable point at or near the town of Beaufort in Carteret county, in the manner prescribed in the second section of this act, to the terminus of the North Carolina railroad, at or near the town of Goldsboro' in the county of Wayne, and said company may use any section of the railroad constructed by them before the whole of said road shall be completed.

Rights.

SEC. 17. *Be it further enacted,* That the said company shall have the exclusive right of conveying or transporting of persons, goods, merchandize and produce over the said railroad to be by them constructed, at such charges as may be fixed on by a majority of the directors.

Right to farm.

SEC. 18. *Be it further enacted,* That the said company may, when they see proper, farm out the right of transportation over said railroad, subject to the rules above mentioned, and the said company and every person who may have received from them the right of transportation of goods, wares and produce on said railroad, shall be deemed a common carrier as respects all goods, wares and merchandize entrusted to them for transportation.

Requisitions.

SEC. 19. *Be it further enacted,* That the board of directors may call for the payment of the sums subscribed as stock in said company in such instalments as the interest of said company may, in their opinion, require. The call for each payment shall be published in one or more newspapers in this State for the space of one month before the day of payment, and on failure of any stockholder to pay each instalment as thus required, the directors may sell at public auction, on a previous notice of ten days, for cash, all the stock subscribed for in said company by such stockholders, and convey the same to the purchaser at said sale; and if said sale do not produce a sufficient sum to pay off the incidental expenses of the sale and the entire amount owing by such stockholder to the company for such subscription of stock, then and in that case the whole of such balance shall be taken and held as due at once to the company and may be recovered of such stock-

holder, or his executors, administrators or assigns, at the suit of said company, either by summary motion in the court of superior jurisdiction in the county where the delinquent resides, on a previous notice of ten days to said subscriber, or by action of assumpsit in any court of competent jurisdiction, or by warrant before a justice of the peace, when the sum does not exceed one hundred dollars, and in all cases of assignment of stock before the whole amount has been paid to the company, then for all sums due on the stock both the original subscribers and the first and all subsequent assignees shall be liable to the company, and the same to be recovered as above directed.

SEC. 20. *Be it further enacted*, That the debt of stockholders due the company for stock therein, either as original proprietor or as first or subsequent assignee, shall be considered as of equal dignity with judgments in the distribution of assets of a deceased stockholder by his legal representative. Delinquent stockholders.

SEC. 21. *Be it further enacted*, That the said company shall issue certificates of stock to its members, and said stock may be transferred in such manner and form as may be directed by the by-laws of the company. Certificate of stock.

SEC. 22. *Be it further enacted*, That the board of directors shall, once in every year, make a full report on the state of the company and its affairs, to a general meeting of the stockholders, and oftener if required; and shall have power to call a general meeting of the stockholders when the board may deem it expedient; and the company may provide in their by-laws for occasional meetings being called, and prescribe the mode thereof. Report.

Lands, &c.

SEC. 23. *Be it further enacted*, That the said company may purchase, have, and hold in fee, for a term of years, any lands, tenements, or hereditaments which may be necessary for said road or the appurtenances therefor, or for the erection of depositories, store-houses, houses for the officers, servants, or agents for the company, or for work-shops or foundries to be used for the said company, or for procuring stone or other materials necessary to the construction of the road, or for effecting transportation thereon, and for no other purpose whatever.

Crossing other roads, &c.

SEC. 24. *Be it further enacted*, That the company shall have the right, when necessary, to construct the said road across or along any public road or water course: *Provided*, That the said company shall not obstruct any public road without constructing another equally as good and as convenient, nor without making a draw in any bridge of said road, which may cross navigable streams, sufficient for the passage of vessels navigating such streams.

Condemnation of lands.

SEC. 25. *Be it further enacted*, That when any lands or right of way may be required by said company for the purpose of constructing their road, and for the want of agreement as to the value thereof, or from any other cause, the same cannot be purchased from the owner or owners, the same may be taken at a valuation to be made by five commissioners, or a majority of them to be appointed by any court of record having common law jurisdiction, in the county where some part of the land or right of way is situated. In making the said valuation, the said commissioners shall take into consideration the loss or damage which may accrue to the owner or owners in consequence of the

land or right of way being surrendered, and the benefit and advantage he, she or they may receive from the erection or establishment of the railroad or work, and shall state particularly the value and amount of each, and the excess of loss and damage over and above the advantage and benefit shall form the measure of valuation of the said land or right of way: *Provided, nevertheless,* That if any person or persons over whose land the road may pass shall be dissatisfied with the valuation of said commissioners, then and in that case the person or persons so dissatisfied, or the president and directors of the road may have an appeal to the superior court in the county where the said valuation has been made, or in either in which the land lies, when it may lie in more than one county, under the same rules, regulations and restrictions, as in appeals from judgments of justices of the peace; the proceedings of the said commissioners, accompanied with a full description of said land or right of way shall be returned under the hands and seals of a majority of the commissioners to the court from which the commission issued, there to remain a matter of record; and the lands or right of way so valued by the said commissioners shall vest in said company so long as the same shall be used for the purposes of said railroad as soon as the valuation may be paid, or when refused, may have been tendered: *Provided,* That on application for the appointment of commissioners under this section, it shall be made to appear to the satisfaction of the court that at least ten days' previous notice has been given by the applicant to the owner or owners of land so proposed to be condemned, or if the owner or owners be infants or *non compos mentis*, then to the guardian of such owner or owners, if such guardian can be found within the county, or, if he cannot

be found, then such appointment shall not be made unless notice of the application shall have been published at least one month next preceding in some newspaper printed as convenient as may be to the court house of the county and shall have been posted at the door of the court house on the first day, at least, of the term of said court to which the application is made: *Provided, further*, That the valuation provided for in this section shall be made on oath by the commissioners aforesaid, which oath any justice of the peace or clerk of the court of the county in which the land or a part of it lies, is hereby authorized to administer: *Provided, further*, That the right of condemnation, however granted, shall not authorize the said company to invade the dwelling house, yard or burial ground of any individual without his consent.

Limitation.

SEC. 26. *Be it further enacted*, That the right of said company to condemn lands in the manner described in the 25th section of this act shall extend to the condemning one hundred feet on each side of the main tract of the road, measuring from the centre of the same, unless in deep cuts and fillings, when the said company shall have power to condemn as much in addition thereto as may be necessary for the purposes of constructing said road; and the company shall also have power to condemn and appropriate lands in like manner for the constructing and building depots, ware-houses, buildings for servants, agents and persons employed on the road not exceeding two acres in any one lot or station.

Contracts.

SEC. 27. *Be it further enacted*, That in the absence of any contract or contracts with said company in relation to lands through which said road or its

branches may pass, signed by the owner thereof or by his agent, or any claimant or persons in possession thereof, which may be confirmed by the owner thereof, it shall be presumed that the land upon which the said road or any of its branches may be constructed, together with a space of one hundred feet on each side of the centre of said road, has been granted to the said company by the owners thereof; and the said company shall have good right and title thereto, and shall hold and enjoy the same as long as the same shall be used for the purposes of said road, and no longer, unless the person or persons owning the said land at the time that part of said road which may be on the said land was finished, or those claiming under him, her, or them, shall apply for an assessment of the value of said land as hereinbefore directed, within two years next after that part of the said road was finished; and in case the said owner or owners, or those claiming under him, her or them, shall not apply within two years next after the said part was finished, he, she, or they shall forever be barred from recovering said lands, or having any assessment or compensation therefor: *Provided*, That nothing herein contained shall affect the rights of *feme coverts* or infants until two years after the removal of their respective disabilities.

SEC. 28. *Be it further enacted*, That all lands ~~Lands~~ not heretofore granted to any person, nor appropriated by law to the use of the State, within one hundred feet of the centre of said road which may be constructed by the said company, shall vest in the company as soon as the line of the road is laid out through it, and any grant of land thereafter shall be void.

Intrusion upon
road punish-
able.

SEC. 29. *Be it further enacted*, That if any person shall intrude upon the said road by any manner of use thereof, or of the rights and privileges connected therewith, without permission or contrary to the will of said company, he, she, or they may be indicted for a misdemeanor, and upon conviction thereof, fined and imprisoned by any court of competent jurisdiction in the State.

Obstruction of
passage.

SEC. 30. *Be it further enacted*, That every obstruction to the safe and free passage of vehicles on the said road or its branches, shall be deemed a public misdemeanor, and may be abated as such by any officer, agent, or servant of said company, and the person causing such obstructions may be indicted and punished for erecting a public nuisance.

Transportation

SEC. 31. *Be it further enacted*, That the said company shall have the right to take at the storehouses they may establish, or annex to their said railroad or the branches thereof, all goods, wares, merchandize, and produce intended for transportation, prescribe the rules of priority and charges, and receive such just and reasonable compensation for storage as they by rules may establish, (which they shall cause to be published,) or as may be fixed by agreement with the owner, which may be distinct from the rules of transportation: *Provided*, That the said company shall not charge or receive storage on goods, wares, and merchandize, or produce, which may be delivered to them at their regular depositories for immediate transportation, and which the company may have power to transport immediately.

SEC. 32. *Be it further enacted,* That the profits Dividends of the company, or so much thereof as the general board may deem advisable, shall, when the affairs of the company will permit, be semi-annually divided among the stockholders in proportion to the stock they may own.

SEC. 33. *Be it further enacted,* That it shall be Subscriptions by towns and counties. lawful for any incorporated town or county near or through which said railroad may pass to subscribe for such an amount of stock in said company as they shall be authorized to do by the inhabitants of said town or the citizens of such county, in manner and form as hereinafter provided.

SEC. 34. *Be it further enacted,* That the cor- Pollporate authorities of such town, or the justices of the peace of such county, a majority of the justices of the county concurring to make an order requiring the constable of such town and the sheriff of such county, at such time and on such notice as they shall direct, to open a poll and take the sense of the voters of such town qualified to vote for town officers, and of the voters of such county qualified to vote for members of the House of Commons of the General Assembly, whether the officers of said town and the justices of the peace of said county shall subscribe to the stock of such company for such sum as the order shall propose, and the constable shall make return of the number against it, and the sheriff shall, in like manner make return as to the vote in his county to the first court thereafter to be held for such county, and it shall be the duty of the sheriff to notify each justice of said county to attend at the court house to which he may make his returns of said poll.

Agents.

SEC. 35. *Be it further enacted,* That if upon the return of such constable and of such sheriff it shall appear that a majority of the qualified voters of such town and by the return of the sheriff that a majority of the qualified voters of such county voting upon the question are in favor of the subscription, the corporate authorities of such town, and the justices of such county shall appoint an agent to make the subscription in behalf of such town and county, to be paid for in the bonds of such town and county and on such time as shall be agreed on by said town officers and the justices of such county.

Loans.

SEC. 36. *Be it further enacted,* That for the purpose of paying the quotas on said stock as may be called for or the instalments on such subscriptions as may fall due, the town authorities and the justices of the county shall have power to appoint an agent or agents to negotiate a loan or loans for and in the name of such town and county, and it shall be the duty of the authorities of such town and of the justices of such county to levy such taxes annually on the persons, lands and other property within such town and county as may be sufficient to pay the amount of such loan or loans and the interest thereon and as said town authorities and justices of such county shall deem necessary and proper, and to make such order or orders as shall be deemed necessary for the due collection and payment of the same, and the stock subscribed on behalf of such town and county shall stand pledged for the payment of the loan thus authorized to be contracted.

SEC. 37. *Be it further enacted,* That the right Proxy, &c. to the stock in the company hereby authorized to be subscribed shall vest in the town and county making such subscriptions, and the corporate authorities of said town and the justices of such county shall have power from time to time to appoint a proxy to represent the stock in the meetings of the stockholders of the company, and also an agent to collect the dividends on such stock, and when collected to apply the same to the payment of the bonds and interest negotiated as aforesaid.

SEC. 38. *Be it further enacted,* That the Gov. Survey. ernor, as president of the board of internal improvements be, and he is hereby authorized and required to make the necessary arrangements with the president and directors of the North Carolina Railroad, for a survey of the most practicable route for a railroad, from the most eligible point in the harbour of Beaufort by Newbern, Trenton and Kinston to the terminus of the North Carolina Railroad at or near Goldsboro', and that the sum of four thousand dollars is hereby appropriated to cover the State's portion of the expenses of said survey to be paid by the public treasurer; and that it shall be the duty of the chief engineer, who shall make such survey, to cause an accurate estimate to be made of the probable cost for the construction of said railroad, and that he report the same to the board of internal improvements.

SEC. 39. *Be it further enacted,* That the president Bank subscrip- and directors of the several banks of this State, by and tions. with the consent of a majority of the stockholders thereof respectively, shall have power and authority to subscribe in the name and on behalf of their cor-

porations respectively, for such an amount of the capital stock of the Atlantic and North Carolina Railroad Company as they may think proper.

Conveyance of
troops, &c.

SEC. 40. *Be it further enacted*, That in case of domestic invasion or insurrection, the company shall transport the troops and munitions of war of the State free of charge.

Exceptions of
officers.

SEC. 41. *Be it further enacted*, That the following officers and servants and persons in the actual employment of said company be, and they are hereby exempt from the performance of jury and ordinary military duty : the president and treasurer of the board of directors, and the chief and assistant engineers, the secretaries and accountants of the company, keepers of the depositories, guards stationed on the road to protect it from any injury, and such persons as may be working locomotives, engines, and traveling with the cars for the purpose of attending to the transportation of produce, goods and passengers on the lands.

Commissioners

SEC. 42. *Be it further enacted*, That for the purpose of creating the capital stock of the North Carolina and Western Railroad Company, the following persons be, and the same are hereby appointed commissioners, namely : Hamilton C. Jones, of Salisbury ; James W. Osborne, of Charlotte ; ———, of Statesville ; ———, of Newton : Todd R. Caldwell, of Morganton ; Elisha P. Miller, of Caldwell ; William H. Miller, of Rutherford ; Haywood W. Guion, of Lincolnton ; William McCarter, of Marion ; David P. Miller, of Hendersonville ; James W. Patton, of Asheville ; A. E. Barn, of Madison ; J. W. McElroy, of Burnsville ; William Johnston, of waynesville ; Joab

Moore, of Franklin, in Macon county; that it shall lawful to open books in the town of Salisbury, under the direction of Burton Craige, Hamilton C. Jones, George W. Brower, Horace L. Robards, Nathaniel Boyden, and Honorable D. F. Caldwell, or any three of them; at Charlotte, under the direction of Joseph H. Wilson, James W. Osborne, N. Hutchinson, John Irwin, Braly Oats and Green W. Caldwell, or any three of them; at Statesville under the direction of Andrew Allison, George F. Davidson, Robert Cowan, Walter P. Caldwell, Dr. Parks, Samuel R. Bell, J. W. Stockton and J. H. Nesbitt, or any three of them; in the town of Newton under the direction of Jonas Bost, Lock McCorkle, — Cline, — Wilkey, Henry Roberson, or any three of them; in the town of Lincolnton under the direction of H. W. Guion, John F. Hoke, Taylor Alexander, Benj. Johnston, Leonard Thompson, Jacob Ramsour, C. C. Henderson, L. D. Chiles and James A. Caldwell, or any three of them; in Rutherfordton under the direction of William M. Shipp, Gen'l Edmund Bryan, William H. Miller, H. D. Carror, — Wilkins, J. G. Bynum, James M. Webb, Dr. John Clayton, Dr. J. C. Calloway, and Dr. John McIntire, or any three of them; in the town of Boon under the direction of Jordan Council, Jonathan Horton, Reuben Mast, and John Morris, or any three of them; in the town of Morganton under the direction of J. T. Avery, James C. Smith, Robert C. Pearson, Thomas Walton, William McKesson, T. R. Caldwell, W. C. Erwin, and Dr. W. McRae, or any three of them; in the town of Lenoir under the direction of James Harper, Sen., L. M. Tuttle, Walter Lenoir, William D. Dold, Samuel Patterson, and Cornelius Clark, or any three of them; in the town of Marion under the direction of W. L. Gill, A. Higgins, Jason

H. Whiston, Alva Burgin, William M. Carson, C. P. Davis and L. A. Erwin, or any three of them; in the town of Shelby, under the direction of ———, or any three of them; in the town of Asheville, under the direction of John Reynolds, James M. Smith, B. J. Smith, M. Patton, W. D. Rarkin, A. B. Chun, J. W. Patton, William Williams, A. T. Summury, J. W. Woodfin, James M. Edney, Hugh Johnston, J. B. Sawyer, Augustus S. Mirriman and Daniel Reynolds, or any three or more of them; in the town of Hendersonville, under the direction of David B. Miller, Joseph Dunlap, Benjamin Posey, James Brittain, William Bryson, Dr. Whittier, Andrew Miller, John Baxter and M. Patton, or any three of them; in the town of Burnsville, under the direction of M. P. Pendham, J. W. McElroy, Joseph Sheppard, J. W. Garland and John Stradley, or any three of them; in Madison, at Smith's and Baird's, under the direction of A. E. Baird, John Pock, David Farnsworth, Hezekiah Bernard, Job Ramsay and I. I. Gudger, or any three of them; in Waynesville, under the direction of W. Welch, W. Johnson, Samuel Fitzgerald, E. B. Hinnen, John S. Smith and A. T. Murray, or any three of them; in the town of Franklin, under the direction of Jessee R. Siler, Joab F. Moore, Dr. H. G. Woodfin, L. R. Lowry, Stephen Munday and H. G. Almon, or any three of them, whose duty it shall be to direct the opening of books for subscription of stock at such times and places and under the direction of such persons as they or a majority of them may deem proper, and the said commissioners shall have power to appoint a chairman of their body, treasurer and all other officers, and to sue for and recover all sums of money that ought, under this act, to be received by them.

SEC. 43. *Be it further enacted*, That each and every of the sections aforesaid, from the third to the forty-first, both inclusive, shall be considered and the same are hereby declared to be applicable and in force as forming a part of the North Carolina and Western Railroad charter, with the following alterations and additions: That the amount of capital to be subscribed on the part of individuals, towns and counties is to be one million of dollars, or at least one-third of the estimated cost of the said road, and that when subscribed, the meeting to be called by the general commissioners shall be held at Morganton, in the county of Burke, and that the board of directors for the management and direction of the affairs of said company shall be composed of ten, six of whom shall be appointed by the governor and council and four by the stockholders: *Provided*, That an agent or agents who may be appointed by the governor shall be authorized to attend the general meetings of the stockholders of each of the companies aforesaid and vote in behalf of the State, except in the election of directors, according to the stock which may be taken and agreeable to such a just scale of voting as may be there agreed on between the stockholders and the agent of the State; and, further, that the construction and extension of the North Carolina and Western Railroad shall be from some eligible point on the North Carolina Railroad, at or near the town of Salisbury across the Blue Ridge to the Tennessee line.

SEC. 44. *Be it further enacted*, That the board of internal improvements be and they are hereby authorized and required to make the necessary arrangements with the president and directors of the North Carolina Railroad for a survey of the most practicable

route for a railroad from some point on the North Carolina Railroad, at or near the town of Salisbury, across the Blue Ridge to the Tennessee line, and that the sum of twelve thousand dollars be and the same is hereby appropriated to defray the expenses of such survey, to be paid by the public treasurer and to be refunded out of the amount of the Cherokee bonds, when collected, as set apart and appropriated under the act of the last session of the General Assembly providing for said survey, and that it shall be the duty of the chief engineer who may be engaged to make the survey to cause an accurate estimate to be made of the probable cost for the construction of said railroad, and that he report the same to the board of internal improvements at the earliest practicable day.

Conditions of
charter.

SEC. 45. *Be it further enacted*, That all the works hereby required of the Atlantic and North Carolina Railroad Company and of the North Carolina and Western Railroad Company shall be executed with due diligence, and if the said road be not completed within six years after the ratification of this act, this charter shall be forfeited.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

CHAPTER CXXXVII.

AN ACT TO INCORPORATE THE CHARLESTON, BLUE RIDGE, AND CHATTANOOGA RAILROAD COMPANY.

SEC. 1. *Be it enacted by the General Assembly of* Capital stock.
the State of North Carolina, and it is hereby enacted
by the authority of the same, That for the purpose of
 constructing a railroad from some point at or near the
 Little Tennessee River, in the county of Macon, to
 some point on the line of the State of Tennessee, in
 the county of Cherokee, in the direction of Chatta-
 nooga, the formation of a corporate company, with a
 capital stock of three millions of dollars, is hereby
 authorized, to be called the "Charleston, Blue Ridge, and
 Chattanooga Railroad Company." and when formed
 in compliance with the conditions hereinafter pre-
 scribed, to have a corporate existence as a body politic
 in perpetuity.

SEC. 2. *Be it further enacted,* That the said Union with
 company is hereby authorized to construct a railroad other com-
 from the point designated in the first section of this panies.
 act, the most practicable route to the line of the State
 of Tennessee, in the county of Cherokee, in the direc-
 tion of Chattanooga, and to unite with any company
 which may be formed to effect the extension to that
 point.

SEC. 3 *Be it further enacted,* That for the pur- Books to be
 pose of creating the capital stock of said company, opened.
 books of subscription shall be opened for forty thou-
 sand shares of the capital stock of said company, in

shares of fifty dollars each, on the first day of May, eighteen hundred and fifty-three, and shall be kept open for ten days, between the hours of ten o'clock, a. m. and four o'clock, p. m., at the following places, and by the following commissioners: At Charleston, in the State of South Carolina, by Henry W. Conner, James Gadsden, H. Gourdin, and Kerr Boyce; at Murphy, Cherokee county, N. C., by Geo. W. Hayes, Abram Harshaw, William Manchester, Allen F. Davidson, S. G. R. Mount, D. F. Ramsour, Felix Axley, Pleasant Henry, and John R. Dyché; at Cleaveland and Chattanooga, in Tennessee, and at such other places and by such commissioners as the Governor of the State in which the books are opened may appoint.

Payments.

SEC. 4. *Be it further enacted,* That the said commissioners, or a majority of them, at each of the aforesaid places, or such others as may be designated, shall receive subscriptions of stock in the railroad company during the time the said books are directed to be kept open; and on each share so subscribed, may call for and receive the sum of one [dollar.] but should the sum of one dollar not be required to be paid at the time of making said subscription, it shall in no wise vitiate said subscription, but the commissioners or their successors may call for and receive the said one dollar at any time thereafter.

Moneys.

SEC. 5. *Be it further enacted,* That as soon as the time of receiving subscriptions as aforesaid shall have expired, the said commissioners shall deposit the money so received in some incorporated bank or banks redeeming its or their notes in specie to the credit of the "Charleston Blue Ridge and Chattanooga Railroad Company."

SEC. 6. *Be it further enacted,* That whenever Corporate title, the sum of three hundred thousand dollars shall be subscribed in manner and form aforesaid, in shares of fifty dollars each, the subscribers, their executors, administrators or assigns, shall be and they are hereby declared incorporated into a company by the name and style of the "Charleston, Blue Ridge and Chattanooga Railroad Company," and by that name shall be capable in law and equity of purchasing, holding, selling, leasing and conveying estates, real, personal and mixed, and of acquiring the same by gift or devise so far as shall be necessary for the purposes embraced within the scope, object and interest [intent] of their charter, and no further, and shall have perpetual succession of members, and by their corporate name may sue and be sued, plead and be impleaded, in any court of law and equity in the State of North Carolina, and may have and use a common seal, which they may alter and renew at pleasure, and shall have and enjoy all other rights and immunities which other corporate bodies may and of right do exercise, and shall [make] all such by-laws, rules and regulations as are necessary for the government of the corporation, or effecting the object for which it was created, not inconsistent with the constitution and laws of this State.

SEC. 7. *Be it further enacted,* That it shall be the duty of the commissioners or a majority of them appointed under the second section of this act, as soon as the sum of three hundred thousand dollars shall have been subscribed in manner aforesaid, in shares of fifty dollars each, to appoint a time for the stockholders to meet at Murphy in the county of Cherokee, after having given at least thirty days' public notice, at which time and place a majority of the stockholders being President and Directors.

represented in person or by proxy, shall proceed to elect twelve directors, out of the number of stockholders, each of whom shall possess at least five shares of stock, and the stockholders shall then proceed to elect a president and treasurer out of the number of stockholders, and the said directors shall have power to perform all other duties necessary for the government of the corporation and the transaction of its business. The persons elected directors at the meeting aforesaid, shall serve such period not exceeding one year, as the stockholders may direct, and at that meeting, the stockholders shall fix on the day and the place or places, where the subsequent election of president, treasurer and directors shall be held, and such elections shall thenceforth be annually made, but if the day of the annual election should under any circumstances pass without the election of officers, the corporation shall not thereby be dissolved, but the officers formerly elected shall continue in office until a new election takes place.

Mode of voting

SEC. 8. *Be it further enacted,* That the election of president, treasurer and directors shall be by ballot, each stockholder having as many votes as he has shares in the stock of the company, and the person having a majority of the stock polled, shall be considered duly elected, and at all elections, and upon all votes taken in any meeting of the stockholders, upon any by-law or any of the affairs of the company, each share of the stock shall be entitled to one vote to be represented either in person or by proxy, and proxies may be verified in such manner as the by-laws of the company may prescribe.

SEC. 9. *Be it further enacted,* That the board of ^{Vacancies.} directors may fill all vacancies which may occur in it during the period for which they have been elected, and in the absence of the president may appoint a president, *pro tempore*, to fill his place from among their own number.

SEC. 10. *Be it further enacted,* That the board ^{Requisitions.} of directors may call for the sums subscribed as stock in said company, in such instalments as the interest of said company may require ; the call for each payment shall be published in one or more newspapers at Charleston and Chattanooga, for the space of one month before the day of payment, and on failure of any stockholder to pay each instalment as thus required, the directors may sell by public auction, on a previous notice of ten days, for cash, all the stock subscribed for in said company by such stockholder, and convey the same to the purchaser at said sale ; and if said sale of stock do not produce a sum sufficient to pay off the incidental expenses of said sale, and the entire amount owing by such stockholder to the company for such subscription of stock, then and in that case the whole of such balance shall be held as due at once to the company, and may be recovered of such stockholder, or his executors, administrators, or assigns, at the suit of said company, either by summary motion in any court of superior jurisdiction in the county where the delinquent resides, on previous notice of ten days to said subscriber, or by the action of assumpsit in any court of competent jurisdiction, or by warrant before a justice of the peace, where the sum does not exceed one hundred dollars ; and in all cases of assignment of stock before the whole amount has been paid to the company, then for all

such sums due on such stock, both the original subscribers and the first and all subsequent assignees shall be liable to the company, and the same may be recovered as above described.

Delinquent
Stockholders.

SEC. 11. *Be it further enacted*, That the debt of the stockholders due to the company for stock therein, either as original proprietor, or as first or subsequent assignee, shall be considered as of equal dignity with judgments in the distribution of assets of a deceased stockholder by his legal representative.

Certificate of
stock.

SEC. 12. *Pe it further enacted*, That the said company shall issue certificates of stock to its members, and said stock may be transferred in such manner and form as may be directed by the by-laws of said company.

Increase of
capital stock.

SEC. 13. *Be it further enacted*, That said company after formed may at any time increase its capital stock to a sum sufficient to complete said road not exceeding three millions of dollars, by opening books for the subscription of new stock, under such agents and at such times and places as they may deem proper, or by borrowing money on the credit of the company, and in the mortgage of its charter and its works and the manner the same shall be done, in either case shall be prescribed by the stockholders.

SEC. 14. *Be it further enacted*, That the said company shall have power and may proceed to construct as speedily as possible a railroad with one or more tracks, from a point at or near the Tennessee River, in the county of Macon, to the line of the State

of Tennessee in the county of Cherokee in the direction of Chattanooga; on which may be used steam or any other description of power.

SEC. 15. *Be it further enacted*, That all contracts Contracts. or agreements authenticated by the president and secretary of the board to be appointed by the directors, shall be binding on the company with or without a seal; such mode of authentication shall be used as the company by their by-laws may adopt.

SEC. 16. *Be it further enacted*, That said company may purchase, have and hold in fee or for a term of years, any land, tenements or hereditaments which may be necessary for said road, or for the erection of depositories, store-houses, houses for the officers, agents or servants of the company, or for the work-shops or foundries to be used by the company, or for procuring stone or other material necessary to the construction of the road or effecting transportation on the same, and for no other purpose whatsoever. Purchase of lands.

SEC. 17. *Be it further enacted*, That the company Rights. shall have the right, when necessary, to construct the said road across any public road or along the side of any public road: *Provided*, That said company shall not obstruct any public road without first constructing one equally as good and as convenient.

SEC. 18. *Be it further enacted*, That where any Lands for road. lands or right of way may be required by said company, for the purpose of constructing their road, and for want of agreement as to the value thereof, or from any other cause the same cannot be purchased from the owner or owners, the same may be taken at a val-

uation to be made by five commissioners or a majority of them, to be appointed by the county court of the county in which such lands or the greater part may be, a majority of justices of such county being present. In making the said valuation the said commissioners shall take into consideration the loss or damage which may accrue to the owner or owners in consequence of the land or right of way being surrendered, and the benefit and advantages he, she or they may receive from the erection of said road, and shall state particularly the value and amount of each and the excess of loss and damage over and above the advantages and benefit shall form the measure of valuation of said land or right of way: *Provided, nevertheless,* That if any person or persons over whose land the road may pass, or the company be dissatisfied with the valuation of the said commissioners, then and in that case either party may have an appeal to the superior court of the county in which the land is situated. The proceedings of said commissioners accompanied with a full description of said land or right of way, shall be returned under the hands and seals of a majority of the commissioners to the court from which the commission issued, there to remain a matter of record; and the lands or right of way so valued by the commissioners aforesaid, shall vest in the said company so long as the same shall be used for the purposes of said railroad so soon as the valuation may be paid, or when refused, may have been tendered: *Provided,* That on application for the appointment of commissioners under this section it shall be made appear to the satisfaction of the court, that at least ten days' previous notice has been given by the applicant to the owner or owners of the land proposed to be condemned: *And provided, further,* That the right of condemnation shall not authorize the

said company to invade the dwelling house, yard, garden or burial ground of any individual without his or her consent.

SEC. 19. *Be it further enacted,* That the right of said company to condemn lands in the manner described in the 12th section of this act, shall extend to the condemning of only one hundred feet on each side of the main track of the said road, measuring from the centre of the same, unless in case of deep cuts and fillings, when said company shall have power to condemn as much in addition thereto as may be necessary for the purpose of constructing said road, and the company in like manner shall also have power to condemn any appropriate lands for the constructing and building of depots, shops, ware-houses, buildings for agents, persons and servants employed on the said road not exceeding two acres in any one lot or station. Land condemned.

SEC. 20. *Be it further enacted,* That all lands on which said road may be located not heretofore granted by the State within three hundred feet of the centre of the road, which may be constructed by the said company shall vest in the company as soon as the line of the road is definitely laid out through it and any grant of said land thereafter shall be void. Public lands.

SEC. 21. *Be it further enacted,* That the said company shall have exclusive right of conveyance or transportation of persons, goods, merchandise, and produce, over said road at such charges as may be fixed by a majority of the directors, which charges shall be so regulated that the profits shall not exceed twenty-five per cent. on the capital stock of said company in any one year. Conveyance.

Transportation

SEC. 22. *Be it further enacted,* That said company shall have the right, and it shall be their duty to take, at the store-houses they may establish on, or annex to their railroad or the branches thereof, all goods, wares, merchandise, and produce intended for transportation, prescribe the rules of priority and charge and receive such just and reasonable compensation for storage as their by-rules may establish which they shall cause to be published, or as may be fixed by agreement.

Intrusion upon
road,

SEC. 23. *Be it further enacted,* That if any person shall intrude upon the said railroad by any manner of use thereof or with the rights and privileges connected therewith, without permission and contrary to the will of said company, he, she or they so offending, may be indicted for misdemeanor, and upon conviction fined and imprisoned, by any court of competent jurisdiction.

Damages to
road.

SEC. 24. *Be it further enacted,* That if any person shall wilfully and maliciously destroy or in any manner damage or obstruct or shall wilfully or maliciously cause or aid or assist or council and advise any other person or persons to destroy or in any manner injure or obstruct the said railroad, or any bridge or vehicle used for or in the transportation thereon, any water tank, warehouse or any other property of said company, such person or persons so offending, shall be liable to be indicted therefor, and on conviction shall be imprisoned, not more than six nor less than one month, and pay a fine not exceeding five hundred dollars at the discretion of the court before which such conviction shall take place, and shall be further liable for the repairing of the same.

SEC. 25. *Be it further enacted,* That the profits Dividends. of the company, or so much thereof as the board of directors may deem advisable, shall, when the affairs of the company will permit, be semi-annually divided among the stockholders in proportion to the stock each may own.

SEC. 26. *Be it further enacted,* That notice of Process. process upon the principal or agents of said company, or the president or directors thereof, shall be deemed and taken to be due and lawful notice of service of process upon the company.

SEC. 27. *Be it further enacted,* That said com- Branches. pany shall have power to construct branches to said road, or to connect with any other railroad that may be constructed; and any contract that may be entered into with any other railroad company by the president and directors of said company, after the consent of a majority of the stockholders first having been obtained, shall be binding on the company.

SEC. 28. *Be it further enacted,* That all the offi- Exemption of officers. cers of the company, persons and servants in the actual employment of the company, be and they are hereby exempted from performing ordinary military duty, serving as jurors, and working on public roads.

SEC. 29. *Be it further enacted,* That the stock Taxes. in said company, and the road and profits thereof, shall not be liable to be taxed to a greater extent than is levied upon stock and other railroads in the State, owned by citizens thereof.

Transportation
of troops.

SEC. 30. *Be it further enacted*, That it shall be the duty of said company, in cases of insurrection or invasion, to transport the troops and munitions of war owned by the State, free of charge and without unnecessary delay.

Construction of
act.

SEC. 31. *Be it further enacted*, That nothing contained in this act shall prevent any future General Assembly from authorizing the construction of a railroad to intersect with the said Charleston, Blue Ridge, and Chattanooga Railroad, at such point or points as may be deemed most proper, and at such point or points to erect the necessary buildings for receiving and forwarding produce to be transported on such intersecting road or roads : and *provided further*, That in the transportation of produce and travelers over the said Charleston, Blue Ridge, and Chattanooga Railroad, no preference shall be given to the said road over any intersecting road or roads which may hereafter be constructed under the authority of this State.

Conditions of
charter.

SEC. 32. *Be it further enacted*, That all the works hereby required for the Charleston, Blue Ridge, and Chattanooga Railroad, shall be executed with due diligence ; and if it be not commenced within three years after the ratification of this act, and finished within ten years after the period of its commencement, this charter shall be forfeited.

[Read three times and ratified in General Assembly
this 23rd day of December, A. D., 1852.] ^

CHAPTER CXXXVIII.

AN ACT TO AUTHORIZE THE UNION OF THE GREENSVILLE AND ROANOKE RAILROAD COMPANY WITH THE PETERSBURG RAILROAD COMPANY.

WHEREAS, it is represented to the General Assembly Preamble.
of the State of North Carolina that it is desired by the
stockholders of the Petersburg Railroad Company and
of the Greenville and Roanoke Railroad Company to
unite into one the roads of both companies and place
the whole under one and the same management—
Therefore,

• SEC. 1. *Be it enacted by the General Assembly of* Union with
the State of North Carolina, and it is hereby enacted other roads.
by the authority of the same, That the stockholders of
the Greenville and Roanoke Railroad Company, the
holders of two-thirds of the stock of each company in
general meeting assenting thereto, may subscribe their
stock in the Petersburg Railroad Company upon such
terms as may be agreed between the said companies
respectively, and, upon such subscription being made,
the Greenville and Roanoke Railroad shall vest in and
become the property of the Petersburg Railroad Com-
pany, and the said Greenville and Roanoke Railroad
shall thenceforth be deemed, to all intents and purposes,
a part of the Petersburg Railroad, and the stockholders
of the said Greenville and Roanoke [Railroad] shall
be stockholders in the Petersburg Railroad Company,
and all the property, both real and personal, at that
time owned by said Greenville and Roanoke Railroad
Company shall belong to and become the property of

the said Petersburg Railroad Company, and the capital stock thereof shall be enlarged to the amount of the capital stock of both companies.

Charters.

SEC. 2. *Be it further enacted*, That when the said companies shall be thus united the charter of the Petersburg Railroad Company, as the same hath been amended, shall be the charter of the united companies, as far as the same may be applicable: *Provided, nevertheless*, That the charter, as the same hath been amended and assented to by the General Assembly of this State, shall regulate and control the company as to so much of the railroad as may lie within this State in the same manner and to the same extent as is now regulated and controled [by] that part of the Petersburg Railroad which is situated within the State.

Duration of
charter.

SEC. 3. And whereas the charters of said companies are of unequal duration, *it is hereby further enacted*, That on the expiration of the charter of the Petersburg Railroad Company, if the same shall not be renewed the stockholders in that company may be stockholders in so much of the railroad as is now the Greenville and Roanoke Railroad, and thenceforth shall be a body corporate under the charter of the Greenville and Roanoke Railroad Company, until the same shall expire by its prescribed limitation of time, and during that period shall have, use and possess all the powers, privileges and franchises which the company now possess and enjoy: *Provided, however*, That if during the union of the companies as herein provided the charter of the Petersburg Railroad Company shall for any cause be adjudged forfeited, the privileges provided in this section shall cease and shall not be used.

SEC. 4. *Be it further enacted*, That upon the Property. union of the two companies as provided for herein, the property of both companies shall be subject to pay all the debts and liabilities which may exist at the time of the union against the Greenville and Roanoke Railroad Company and the Petersburg Railroad Company, may be sued for the same, and in like manner the said company may collect in the same name all the debts there is [are] due the Greenville and Roanoke Railroad Company, and moreover may sue and be sued in that name for all injuries and liabilities of every kind whatever which may have been done or suffered by the Greenville and Roanoke Railroad Company previous to its union.

SEC. 5. *Be it further enacted*, That nothing in Previous act. this act shall be construed to affect the twenty-ninth section of the act passed at the General Assembly of the year 1833, entitled "An act to incorporate the Greenville and Roanoke Railroad Company."

SEC. 6. *Be it further enacted*, That this act Takes effect. shall go into effect whenever the same may be assented to by the Legislature of Virginia; and when the companies shall become united the same shall be certified by the president under the seal of their respective companies, to the secretary of state, and be filed by him among the papers of that department, and a certified copy thereof from the department shall be evidence of the union of the said companies according to the provisions of this act.

SEC. 7. *Be it further enacted*, and it is hereby expressly declared, That neither by the passage of this act, nor by anything in the same contained, it is intend- Petersburg company.

ed to waive or remit to the said Petersburg Railroad Company any penalty incurred by it or any forfeiture incurred of its rights, privileges and franchises by reason of any default, omission or act heretofore done or omitted to be done ; but the same may be prosecuted as if this act had never passed, and in any judgment to be rendered thereon the said two companies shall be deemed and regarded as having been one and the same at the time of the penalty or forfeiture incurred.

[Read three times and ratified in General Assembly,
this 23d day of December, A. D., 1852.]

CHAPTER CXXXIX.

AN ACT TO AMEND AN ACT ENTITLED AN "ACT TO INCORPORATE THE NORTH CAROLINA RAILROAD COMPANY."

SEC. 1. *Be it enacted by the General Assembly of* Amendments.
the State of North Carolina, and it is hereby enacted by the authority of the same, That the act incorporating the North Carolina Railroad Company be, and the same is hereby amended in the following particulars, (a majority of the stockholders in general meeting concurring,) to wit: the subscription on behalf of the State shall be paid in manner and proportions following: one-fourth part thereof so soon as the public treasurer shall be able to issue and dispose of the bonds or certificates as authorized by the act of incorporation aforesaid, and one-fourth part every six months thereafter or sooner and in greater or less sums as the president and treasurer of the company from time to time shall in a satisfactory manner assure the board of internal improvement by the certificate under the seal of said company, that an amount of the private subscription has been paid in equal proportion to the stock subscribed on behalf of the State.

SEC. 2. *Be it further enacted,* Directors.
That the affairs of the company shall be managed and directed by a general board to consist of twelve directors, eight of whom shall be appointed annually by the governor, by and with the advice and consent of the council of state, and may be removed in like manner, and to be elected

by the stockholders at their next general meeting, provided no one but a *bona fide* stockholder shall serve as a director.

Votes.

SEC. 3. *Be it further enacted*, That in all elections and upon all questions taken in any general meeting of stockholders in which a vote by stock may be had, the vote shall be taken according to the following scale: The owner of one or two shares shall be entitled to one vote, the owner of not less than three nor more than four shares shall be entitled to two votes, the owner of not less than five nor more than six shares shall be entitled to three votes, the owner of not less than seven shares nor more than eight shares to four votes, the owner of not less than nine nor more than eleven shares to five votes, the owner of not less than twelve nor more than fifteen shares to six votes, the owner of not less than sixteen nor more than twenty shares to seven votes, the owner of not less than twenty-one nor more than twenty-six shares to eight votes, the owner of not less than twenty-seven shares nor more than thirty-three shares to nine votes, the owner of not less than thirty-four nor more than forty shares to ten votes, and the owner of every ten shares above forty shall be entitled therefor to one vote: *Provided*, That no individual or company holding stock in said company shall be entitled to more than five hundred votes, except the State, who shall be entitled to one thousand votes; but should the State hereafter transfer any part of its stock, then its vote shall be in the proportion of what may be retained as compared with the amount now represented in said corporation shall at general meetings of the stockholders be represented by an agent or proxy appointed by the governor, and such agent or proxy shall be en-

titled in the general meetings aforesaid to vote according to the above scale on all questions except in the election of directors by the individual stockholders.

SEC. 4. *Be it further enacted*, That any stock- Proxies.
holder or person acting by proxy who may offer to vote on any stock transferred may be required by a stockholder present to swear that he is, or if by proxy, that the person he represents he believes to be the *bona fide* owner of such stock, otherwise such vote shall not be received, and, on the death of any stockholder, his legal representative shall be entitled to vote either in person or by proxy.

SEC. 5. *Be it further enacted*, That the presi- Lands.
dent and directors of said company, for the purpose of constructing their said road, and the work necessarily connected therewith, or of repairing the same, or otherwise enlarging or altering the same, shall be at liberty to enter upon any lands convenient thereunto, and to cut, quarry, dig, take, and carry away any wood, timber, stone, gravel, or earth, as may be deemed necessary, and for all wood, timber, stone, ground, or earth taken as aforesaid, and for any injury done to the inclosure, crop, wood, timber, stone or ground, in taking and carrying away the same, the said president and directors shall make to the owner thereof a fair and reasonable compensation, to be ascertained, if the parties cannot agree, by any three disinterested freeholders, to be appointed by any justice of the peace, to be sworn by him, and who shall, upon their own view, ascertain the amount of damages to the owner, provided due notice in writing, of at least ten days, shall have been given to the president or some one of the directors, of such proceeding, and either party

being dissatisfied with the award, may appeal to the superior court of the county wherein the proceedings shall be had, who shall have authority to hear and decide the same, and who may affirm or disaffirm the award of the freeholders, and hear and decide the amount of damages as shall seem right and just, as also the question of costs: *Provided, however,* That nothing in this act shall be so construed as to give the president and directors of said company power to take or use any fruit trees, or shade or ornamental trees.

Provided, That the directors to be appointed by the governor and council shall not enter upon their duties as members of the board of directors before next annual meeting of the stockholders of July next.

[Read three times and ratified in General Assembly,
this 25th day of December, A. D., 1852.]

CHAPTER CXL.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE RALEIGH AND GASTON RAILROAD COMPANY."

WHEREAS, By an act passed at the session of the Preamble.
General Assembly for the year 1850-51, entitled "An act to incorporate the Raleigh and Gaston Railroad Company," certain commissioners were appointed to receive subscriptions of stock to the said Raleigh and Gaston Railroad Company, to the amount of four hundred thousand dollars, in shares of one hundred dollars each; and whereas the said commissioners received such subscriptions, and duly returned the same, whereupon such proceedings were had pursuant to the provisions of said act, as to form the said subscribers into a body politic and corporate, under the name and style of "The Raleigh and Gaston Railroad Company;" and whereas there are in the said act sundry omissions and imperfections, for remedy thereof,

SEC. 1. *Be it enacted by the General Assembly of* Corporate title.
the State of North Carolina, and it is hereby enacted by the authority of the same, That the original subscribers to the stock of the corporation created by the said act, their executors, administrators and assigns are hereby declared to be a body politic and corporate under the name and style of "The Raleigh and Gaston Railroad Company," separate and distinct from, and wholly unconnected with the company formerly existing by the same name, and shall have, and are hereby declared to have all the rights, privileges and author-

ities of a body politic and corporate, and by that name shall be capable in law of purchasing, holding, selling, and conveying estates, real, personal and mixed, so far as shall be necessary for the purpose hereinafter mentioned and no farther; and shall have perpetual succession, and by said corporate name may sue and be sued, may have and use a common seal, and may from time to time, make all such by-laws, rules and regulations as may be necessary for the well ordering and conducting of the affairs of the said corporation, not inconsistent with the constitution and laws of this State nor with the following fundamental terms and conditions, to wit:

Capital stock.

SEC. 2. *Be it further enacted,* That the capital stock of said company shall consist of eight hundred thousand dollars, (except as hereinafter provided,) to be held as follows, to wit: one-half thereof, or four hundred thousand dollars, by the State of North Carolina, in consideration of the transfer and assignment by the said State, as hereinafter provided, to the said corporation, of that railroad heretofore known as the Raleigh and Gaston Railroad, and now the property of the said State, together with all its machine shops, implements, warehouses, depots, water stations, engines, and every other description of property, real, personal, or mixed, appertaining to the same; and the other half of the said capital shall be held and owned in shares of one hundred dollars each, by those individuals who subscribed for the same, according to the returns of the said original commissioners, their executors, administrators, or assigns; and whenever it shall appear by the certificate of the president and treasurer of the said corporation that the said sum of four hundred thousand dollars hath been actually paid

in by the said subscribers, and expended by the said company in rebuilding the Raleigh and Gaston Railroad, with an iron rail weighing not less than fifty pounds to the lineal yard, and in the purchase of the necessary cars, engines, and other suitable materials for properly stocking and equipping the road, so as to do the transportation thereon, then it shall be the duty of the governor of the State for the time being, and he is hereby authorized and required, under the great seal of the State, to transfer and convey to the said corporation the said Raleigh and Gaston Railroad, with all its fixtures and equipments hereinbefore mentioned.

SEC. 3. *Be it further enacted*, That the State of State directors.

North Carolina shall be entitled to three directors in the said company, to be annually appointed by the board of internal improvements, and at the annual meetings of said company the individual stockholders shall have power and authority to elect four directors, citizens of the State, who, with the directors on the part of the State, shall have power to elect a president out of their own body, to manage all the affairs of the said company, and the said directors shall continue in office until their successors shall have been elected. The president, with any three or more of the directors, or in the absence of the president, any four of the directors, who shall appoint one of their own body president *pro tem.*, shall constitute a board for the transaction of business. In case of vacancy in the office of president or any director, from death, resignation, or otherwise, such vacancy shall be supplied by appointment of the board until the next annual meeting: *Provided*, That whenever the State shall transfer its stock, in whole or in part, the State

shall have only one director for every thousand [shares] which it may retain in the stock of said company.

Annual meet-
ing.

SEC. 4. *Be it further enacted,* That an annual meeting of the subscribers to the stock of the said company, shall be held, at such time and place in each year as the stockholders, at their general or at any subsequent meeting may appoint, to constitute which, or any general meeting called by the president and directors according the provisions of this act, a number of persons owning a majority of the shares of stock held by individuals in said corporation, shall be present either in person or by proxy ; and if a sufficient number to constitute a meeting do not attend on the day appointed, those who do attend shall have power to adjourn from time to time until a meeting shall be formed.

Votes.

SEC. 5. *Be it further enacted,* That in all general meetings of the said company, each stockholder shall be entitled to give one vote for each share not exceeding ten shares, and one vote for every three shares above ten shares ; and it shall be lawful for the board of internal improvements to appoint some suitable person to represent the interest of the State in all such meetings, who shall have a right to vote on all questions coming before them, except in the election of the directors, to be appointed by the individual stockholders.

Contracts.

SEC. 6. *Be it further enacted,* That the said president and directors shall have full power and authority, to make contracts, with any person or persons on behalf of the said company for re-constructing said road and performing all other works, which from time to time may be necessary for the completion and repairs of the said road ; to require from the individual

stockholders from time to time such advances of money on their respective shares, as the wants of the company may demand until the whole of their subscriptions shall be advanced; to call on any emergency a general meeting of the stockholders, giving one month's previous notice thereof, in one or more newspapers; to appoint a treasurer, clerk, and other officers, as they may require, and generally to transact all the necessary business of the company during the intervals between the general meetings of the stockholders: *Provided*, That no loan, which may be equivalent to an increase of the capital stock of said company, and for which the assignable bonds, or other securities of the said company are to be given, shall be made by the said president and directors, unless such loan be first authorized, at a general meeting of the stockholders, and in the event of such loan being made no dividend shall be paid upon any stock holden in said company until the interest upon such debts shall have been paid or reserved out of the profits, and a sinking fund equivalent to at least *six per centum* per annum, on such debt shall have been likewise reserved, to be invested by the president and directors, in some good and valid security: *Provided, further*, That all loans, which may have been heretofore or may be hereafter authorized by the said stockholders in general meeting, shall be valid and obligatory upon the said corporation.

SEC. 7. *Be it further enacted*, That if any stockholder shall fail to pay the sum required of him by the president and directors within one month after the same shall have [been] advertised in one or more convenient newspapers, it shall and may be lawful for the said president and directors to sell at public auction and to convey to the purchaser the share or shares of

Delinquent
Stockholders.

such stockholders so failing, giving one month's previous notice of the time and place of sale in manner aforesaid, and, after retaining the sum due and charges of sale out of the proceeds thereof, to pay the surplus, if any, to the owner, or his legal representative; and if the said sale shall not produce the sum required to be advanced, with the incident charges attending the sale, then the said president and directors may recover the balance from the original subscriber, or his assignee, or the executor or administrator of either of them, by suit in any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county of which he is a resident, and any purchaser of the stock of the company under such sale shall be subject to the same rules and regulations as the original proprietor. It shall, nevertheless, be lawful for the said president and directors, if they deem it expedient, instead of selling the stock of delinquent subscribers, as contemplated by this section, to recover such sums as may be due the said company from delinquent subscribers by suit in any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county in which such delinquent stockholder is a resident.

Rights and
powers.

SEC. 8. *Be it further enacted,* That the said railroad and all engines, cars and machinery, and all the works of said company, together with all profits which shall accrew [accrue] from the same, and all the property thereof of every description shall be vested in the said company, one half thereof to the use and benefit of the State, and the other half to the use and benefit of the individual stockholders, and the same shall be deemed and held to be personal estate, and shall be exempt from any public charge or tax what-

soever for the term of fifteen years, and thereafter the Legislature may impose a tax not exceeding twenty-five cents per annum on each share of the capital stock held by individuals whenever the annual profits shall exceed eight per cent.

SEC. 9. *Be it further enacted*, That in case of domestic invasion or insurrection, the said company shall transport the troops and munitions of war of the State of North Carolina free of charge. Conveyance of troops, &c.

SEC. 10. *Be it further enacted*, That the said company shall give no undue preference to the property of one person over that of another, but as far as practicable shall transport such in the order of time in which it shall be delivered or offered for transportation, the tolls thereon being first paid or tendered; and it shall be lawful for them to charge for the transportation of persons, goods, produce and merchandise and for the mail any sum not exceeding the following rates: On persons, not exceeding six cents per mile for each person, unless the distance which any person may be transported should be less than ten miles, in which case, an extra charge of fifty cents may be made for taking up and putting down such persons; for the transportation of produce, goods, wares, merchandise and other articles not exceeding an average of eight cents per to, and for the transportation of the mail, such sum as may be agreed upon between the company and the Post Office Department of the United States. Freight, &c.

SEC. 11. *Be it further enacted*, That the president and directors shall render distinct accounts of their proceedings and disbursements of money to each annual meeting of the stockholders. Account of proceedings.

Certificate of
stock.

SEC. 12. *Be it further enacted*, That the president and directors shall cause to be printed certificates of the shares of the stock in the said company, and, whenever the terms hereinbefore mentioned shall have been complied with, shall deliver one such certificate, signed by the president and countersigned by the treasurer, to each person for the number of shares subscribed by him, her or them, or to the assignee of such subscribers, which certificate shall be transferable, either in person or by attorney, on the books of the said company, and on each such transfer the assignee shall henceforth become a member of the said company and shall be entitled to all the privileges and subject to the rules and regulations of the same.

Violation of
charter,

SEC. 13. *Be it further enacted*, That whenever the General Assembly may be of opinion that the characters [charters] hereby granted shall have been violated, it may be lawful, by joint resolution of the two houses to direct the attorney general, with such assistant counsel as the governor or the Legislature may think proper to engage, to issue a writ of *scire facias* returnable before the judges of the supreme court, calling upon the said corporation to show cause why their charters shall not be forfeited, subject to the same proceedings as are now prescribed by law in case of other corporations. Their books shall be at all times open to the inspection of a committee of the General Assembly, appointed for that purpose, and the president of said company shall biennially make a report to the Legislature on or before the third week of their session, so long as the State shall remain a stockholder, of their receipts and expenditures and of such other of their expenditures as he shall deem proper.

SEC. 14. *Be it further enacted*, That any railroad which may hereafter be constructed by the State, or by any company incorporated by the Legislature, shall be at liberty to cross the road hereby allowed to be reconstructed, upon a level or otherwise as may be advantageous: *Provided*, The free passage of the Raleigh and Gaston Railroad be not thereby obstructed. Privileges of other roads.

SEC. 15. *Be it further enacted*, That whenever the said railroad shall be so crossed or approached by any other railroad incorporated by this State, the said Raleigh and Gaston Railroad Company may erect a depot at or near the point of intersection, where they may receive and deliver passengers and freights and take therefor the same rates of transportation and be subject to the same rules and regulations as at other depots, and should they fail or refuse to erect such depots, the State or company owning such intersecting road may erect one, and the company hereby incorporated shall receive and deliver passengers and freights at such depots, under the same regulations as aforesaid, unless the same shall be rendered impracticable by the situation of the railroad at that place. Depots.

SEC. 16. *Be it further enacted*, That the profits of the said company shall be divided annually or semi-annually, at the pleasure of said company, one-half thereof to the State of North Carolina, to be paid to the public treasurer of the State, and the other half among the individual stockholders, according to their respective shares. Profits.

Iron.

SEC. 17. *Be it further enacted*, That it shall be lawful for the said president and directors to sell the iron on the Raleigh and Gaston Railroad and apply the proceeds thereof to the reconstruction of the said road, except so much of the said iron as was purchased of Joseph Anderson, of Richmond, Virginia.

Junction with
N. C. Road.

SEC. 18. *Be it further enacted*, That to enable the said Raleigh and Gaston Railroad Company to effect a junction and form an actual connection with the North Carolina Railroad whenever the superstructure shall have been laid on that part of the road of the North Carolina Railroad Company lying between Raleigh and Goldsboro', as provided in the 52d section of the act incorporating the North Carolina Railroad Company, the president and directors are hereby invested with full powers and authority to make all necessary contracts for the construction of said road and to resort to the same means for purchasing or condemning such lands as may be required therefor as are provided in the act incorporating the North Carolina Railroad Company.

Connexion
with other
roads.

SEC. 19. "And whereas, it is provided by the 49th section of the act incorporating the North Carolina Railroad Company," that whenever "the Roanoke Railroad Company or the Seaboard and Roanoke Railroad Company, with or without the aid of individuals, shall subscribe to the Raleigh and Gaston Railroad Company one-half of the sum necessary to construct a railroad from some convenient point on the Raleigh and Gaston Railroad, near the Littleton depot, or any point between that depot, Roanoke river, and the town of Weldon, or any point in the neighborhood thereof, so as to connect with the Wil-

mington and Raleigh Railroad, and the Seaboard and Roanoke Railroad, and shall expend the said sum in forming the said connection, then the said Raleigh and Gaston Railroad shall be extended to the said town of Weldon, or neighborhood thereof; and the public treasurer is hereby authorized and directed to subscribe for an equal sum for and in behalf of the State, and pay for such subscriptions out of any money in the treasury not otherwise appropriated; and for the want of such money in the treasury, the public treasury is hereby authorized to borrow the sum at a rate of interest not exceeding six per cent. per annum, and to issue bonds payable at any time within ten years, for not less than five hundred dollars each;" and whereas, the said Seaboard and Roanoke Railroad Company hath already subscribed to the said Raleigh and Gaston Railroad Company, the sum of seventy-five thousand dollars for the purpose of constructing said road, which subscription hath been accepted by the stockholders of the said Raleigh and Gaston Railroad Company; and whereas, the said road hath been already located and commenced, and a large portion of said subscription hath already been paid by the said Seaboard and Roanoke Railroad Company towards the construction of said road; and whereas, such connection is deemed of great importance to the said Raleigh and Gaston Railroad and to the people of this State. *Be it therefore enacted*, That the said above recited section is hereby re-affirmed and re-enacted and declared to be a part of the charter of said Raleigh and Gaston Railroad Company, with the following provisions and amendments: "Now, that for the purpose of rendering the same effectual, and guarding the interest of the [*of the*] State, and of the said Raleigh and Gaston Railroad Company, William Collins, Francis Mallory and

Samuel S. Roysters, with the agent or representative of the State, appointed by the board of internal improvements, are hereby appointed commissioners to superintend the construction of said connection, and the disbursement of the funds intended to be applied to the same, with power to employ a treasurer for the safe keeping and disbursing the funds, and to require from said treasurer such bond as they may deem proper for the faithful discharge of his official duty.

Extension.

SEC. 20. *And be it further enacted*, That said commissioners shall have, and are hereby declared to have all the powers and rights necessary to effect the construction of the said connection, and may in their names commence and prosecute to judgment all such proceedings as may be requisite and proper, for the purpose of condemning any lands which may be required for the construction of said road, in the manner, and on the same process and conditions as are prescribed in the act incorporating the said North Carolina Railroad Company; and whereas it may be necessary for the Raleigh and Gaston Railroad Company to form a connection from the town of Weldon, with the navigable waters of the Roanoke River below said town, so as to connect with the steamboats and vessels navigating the Roanoke River and Albemarle Sound.

Therefore, be it enacted, That the president and directors of the said Raleigh and Gaston Railroad Company be, and they are hereby authorized and empowered, whenever they may deem it expedient to extend their railroad to the navigable water of the Roanoke River, and they are hereby vested with full power and authority to make all necessary contracts for the con-

struction of said railroad, and to resort to the same means for purchasing or condemning such lands as may be required therefore, [therefor] as are provided in the act incorporating the North Carolina Railroad Company.

SEC. 21. *Be it further enacted,* That whenever the said road shall have been completed, it shall be the duty of the said commissioners to make out a duplicate return of their proceedings, stating the particulars of the cost of the construction of said road, one of which shall be made to the Governor of the State, the other to the president of the Raleigh and Gaston Railroad Company, and upon the same being accepted, the cost of said construction shall be added to and constitute a part of the capital stock of the said Raleigh and Gaston Railroad Company, at the rate of one share for each hundred dollars of such cost, and shall vest one half in the State of North Carolina, and one half in such corporation or individuals as may have subscribed to the said stock, according to the respective amounts of such subscription, their executors, administrators or assigns, and shall be for such amount an increase of the capital stock of said Raleigh and Gaston Railroad Company over and above the sum of eight hundred thousand dollars hereinbefore declared to be the capital of the said company, and thereupon the said Raleigh and Gaston Railroad shall be extended to the said town of Weldon or such point in the vicinity thereof as such connection may be formed, and all the lands purchased or condemned for the construction of said road together with all materials used in the construction thereof, depots, ware-houses and all other property pertaining to the same, and all privileges, rights and powers which may be necessary for doing the transportation

Duplicate
return.

of freights and passengers on said road, shall be, and the same are hereby declared to be vested in the said Raleigh and Gaston Railroad Company in the same manner, and to the same intent, as if such connection had constituted a portion of the original Raleigh and Gaston Railroad.

Vacancies.

SEC. 22. *Be it further enacted*, That in the event of vacancy in the said board of commissioners, by death, resignation or otherwise, such vacancy shall be supplied by the president and directors of the Raleigh and Gaston Railroad Company.

Transportation

SEC. 23. *Be it further enacted*, That it shall and may be lawful for the president and directors of the said Raleigh and Gaston Railroad Company to contract with the president and directors of the Roanoke Valley Railroad or with the president and directors or managers of any other railroad connecting with the said Raleigh and Gaston Railroad for doing the transportation of freight and passengers on such road or roads upon such terms as may be agreed on between them.

Takes effect.

SEC. 24. *Be it further enacted*, That this act shall take effect immediately from and after its acceptance by three-fourths of the stockholders of said Raleigh and Gaston Railroad Company in general meeting assembled—acceptance to be signified to the governor of the state by the president of said company, under the great seal of the same and shall continue in force for the term of ninety years from and after such acceptance.

[Read three times and ratified in General Assembly, this 25th day of December, A. D., 1852.]

CHAPTER CXLI.

AN ACT AUTHORIZING THE RICHMOND AND DANVILLE RAILROAD COMPANY TO ESTABLISH A DEPOT AT OR NEAR THE TOWN OF MILTON.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the president and directors of the Richmond and Danville Railroad Company, chartered by an act of the General Assembly of the State of Virginia, be and they are hereby authorized to erect within the town of Milton, in this State, or within one mile thereof, a warehouse, water station, and other necessary buildings connected with the establishment of a depot in or near the said town, and to hold the same, when acquired by purchase or otherwise, as a corporation, in the same way as railroad companies chartered by the General Assembly of this State are now authorized to hold real estate, and other property, and that the said company shall have the power and authority to erect a railway to the said depot not exceeding one half mile in distance. Depots, warehouses, &c,

SEC. 2. *Be it further enacted,* That the said railroad company for the purpose of keeping up the said depot for the reception of produce, &c., shall have and enjoy the same privileges, immunities and protection that are granted to the railroad companies of this State; and may sue and be sued in the courts of this State as other corporations. Privileges.

Authority to
subscribe stock
in the Rich-
mond & Dan-
ville Road.

SEC. 3. *Be it further enacted*, That the commissioners of police of the town of Milton shall have power and authority to subscribe for an amount of stock in the said Richmond and Danville Railroad Company, for the purpose of building a branch road to the said town, not exceeding the sum of ten thousand dollars, and make provisions to pay the principal and interest of the same: *Provided*, A majority of the citizens entitled to vote at elections, and owning real estate in the said corporation, shall at an election held for that purpose vote for the same.

SEC. 4. *Be it further enacted*, That this act shall be in force from and after the ratification of the same.

[Read three times and ratified in General Assembly
this 27th day of December, A. D., 1852.]

CHAPTER CXLII.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE ROANOKE VALLEY RAILROAD COMPANY."

SEC. 1. *Be it enacted by the General Assembly* Scale of voting,
of the State of North Carolina, and it is hereby enacted by the authority of the same, That hereafter in the election of the president and directors by the stockholders of the said company, the vote shall be taken according to the scale of voting established and required by the laws of Virginia on the subject of railroads, and shall so correspond in voting on all other questions in which a vote shall be taken by stock.

SEC. 2. *Be it further enacted,* That it shall be Authority to borrow money.
lawful for the president and directors of said company, whenever a majority of the stockholders shall so direct, to borrow such sum of money as may be found necessary for the completion of the said road, to issue the bonds of the company for the same and to mortgage or otherwise to pledge the said road and its appurtenances for the payment of said bonds with the interest thereon.

SEC. 3. *Be it further enacted,* That this act shall be in force from and after its acceptance by the stockholders in general meeting assembled.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

CHAPTER CXLIII.

AN ACT CONCERNING THE SEABOARD AND ROANOKE RAILROAD COMPANY.

Preamble.

WHEREAS, by the authority, and in accordance with the provisions of an act of the General Assembly of Virginia, entitled "An act to unite the Seaboard and Roanoke Railroad and the Roanoke Railroad Companies, and for other purposes," passed February the first eighteen hundred and forty-eight, and an act of the General Assembly of North Carolina, entitled "An act to unite the Roanoke Railroad and the Seaboard and Roanoke Railroad Companies, and for other purposes," passed January, eighteen hundred and forty-nine, the shareholders of the Seaboard and Roanoke Railroad Company, at a meeting held at Portsmouth, Virginia, on the 22d of February, 1849, and the stockholders of the Roanoke Railroad Company, at a meeting held at Weldon, North Carolina, on the 22d February, 1849, did accept the provisions of the above recited acts and, by mutual consent, consolidated the two companies into one under the name and style of "The Seaboard and Roanoke Railroad Company," evidence whereof was laid before the board of public works of Virginia on the 2d of March, 1849, read and delivered to the second auditor for safe keeping, and it is extremely desirable, the said company being a corporation in both States, that the legislation of the State of Virginia and North Carolina in relation to the same should, as far as practicable, be uniform :

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That such of the following provisions as may be adopted by the State of Virginia be, and the same are hereby declared permanent provisions of the charter of the said company, not subject to alteration by either State without the consent of the other. Permanent provisions.

SEC. 2. *Be it further enacted,* That said company is hereby declared a body corporate and politic, under the name and style of "The Seaboard and Roanoke Railroad Company," and in that name may sue and be sued, plead and be impleaded, and shall possess and enjoy all the rights, privileges and immunities of a corporation or body politic in law, and may make all such by-laws, rules and regulations not inconsistent with the constitution and laws of this State and the State of Virginia or of the United States, as they may deem necessary for promoting the interest thereof. Corporate title.

SEC. 3. *Be it further enacted,* That an annual meeting of the stockholders of said company shall be held on such day as they may in general meeting from time to time appoint, and at such places as may be fixed from time to time by the board of directors, of which notice shall be published for two weeks in a newspaper in the cities of Norfolk or Portsmouth. Annual meeting.

SEC. 4. *Be it further enacted,* That a general meeting of the stockholders may be held at any time upon the call of the board of directors, or of stockholders holding one-tenth of the capital stock, upon their giving notice of the time and place of such meeting for thirty days, in a newspaper published in the said city. General meeting.

How constituted.

SEC. 5. *Be it further enacted*, That to constitute a meeting of the stockholders, there must be present those who can give a majority of all the votes which could be given by all the stockholders. If a sufficient number fail to attend at the time and place for a meeting, those who do attend may adjourn from time to time until a meeting shall be regularly constituted. Such meeting may adjourn from time to time, until its business is completed.

Votes.

SEC. 6. *Be it further enacted*, That in a meeting of the stockholders, each stockholder may, in person or by proxy, give the following vote on whatever stock he may hold in the same right, to wit: one vote for each share of such stock not exceeding twenty; one vote for every two shares exceeding twenty and not exceeding two hundred; and one vote for every five shares exceeding two hundred and not exceeding five hundred; and one vote for every ten shares exceeding five hundred.

Transferred stock.

SEC. 7. *Be it further enacted*, That when a vote is offered to be given at any meeting upon stock transferred within sixty days before such meeting, if any present object to the vote, it shall not be counted unless the stockholder has made or shall make oath that the stock on which such vote is to be given, is held by him *bona fide*, and not by virtue of a transfer with intent to give more votes than is allowed by the preceding section.

President and Directors.

SEC. 8. *Be it further enacted*, That the stockholders shall at each annual meeting elect a president and five or more directors, one of whom shall be taken from each of the States of Virginia and North Caroli-

na, who shall be a board to have things done that may be proper to be done by the company, not otherwise provided for, by any law of the States or any by-law or regulation of the stockholders. The stockholders in general meeting may remove any director and fill the vacancy caused by such removal, but unless so removed the directors shall remain in office until the next annual meeting of the stockholders and until their successors shall be appointed. Should the number of directors be at any time reduced below the number necessary to hold a meeting of the board, the stockholders may in general meeting fill the vacancy.

SEC. 9. *Be it further enacted,* That there shall be no compensation for services rendered by the president or any director, unless it be allowed by the stockholders. During the absence of the president the directors may appoint a president, *pro tem*. The directors may also fill any vacancy which may occur in the office of president or directors, otherwise than by removal. Vacancies.

SEC. 10. *Be it further enacted,* That the board shall appoint a treasurer and such other officers and agents as they may deem proper, and prescribe their compensation. They shall give bonds payable to the company, with such conditions as the board may require, and with such sureties as it may approve, and hold their places during its pleasure. Officers.

SEC. 11. *Be it further enacted,* That the board shall cause regular books of accounts to be kept and balanced annually. All books, papers, correspondence and funds in possession of any officer of the company shall at all times be subject to the inspection of the the board or a committee thereof. Books.

Regulation of
Votes.

SEC. 12. *Be it further enacted,* That the board shall hold annual meetings at such times as they shall see fit or the president shall require; questions before it shall be decided *viva voce*. No member of the board shall vote on a question in which he is personally interested otherwise than as a stockholder. The names of those voting each way shall be taken down, if desired, at the time, by any member. There shall be a record of such votes, and of all other proceedings of the board, and the same shall be verified by the signature of the president or president *pro tempore*.

Report.

SEC. 13. *Be it further enacted,* That the board shall make a report to the stockholders, at their annual meeting, of the condition of the company. Accompanying the report there shall be statements of the receipts and disbursements for the year ending on such day as the by-laws may prescribe, and a statement of the surplus or contingent fund then on hand. Within thirty days next before such meeting the record of proceedings of the board shall be open to the inspections of three or more stockholders holding, together, one hundred shares of the capital stock. It shall be produced to the stockholders, when demanded by them, at any time.

Loans.

SEC. 14. *Be it further enacted,* That the company are authorized to borrow money at a rate of interest not exceeding seven per cent. per annum, payable semi-annually, and to make their loans, or any portion of them, if they should deem it advisable to do so, convertible into stock of the company guaranteed to produce semi-annual dividends of three and a half per cent. to secure the punctual payment of the principal and interest of said loans or guaranteed divi-

dends, as the case may be, by a deed of trust or mortgage on all the works and property and rights, privileges and franchises of the company, subject only to prior mortgages or deeds of trust on the same.

SEC. 15. *Be it further enacted,* That shares of the stock shall be deemed personal estate, and as such shall pass to the personal representatives or assignee of a stockholder; a book shall be kept by the company in which the shares may be assigned. Assignment of stock.

SEC. 16. *Be it further enacted,* That if the money which any stockholder has to pay upon his shares be not paid as required by the president and directors, the same with interest thereon may be recovered by warrant, action or motion, according to the amount, or such shares may after notice in a newspaper for one month of the time and place of sale, be sold at public auction for ready money and transferred to the purchaser; out of the proceeds of such sale, there shall be paid the charges and the money which ought to have been paid upon the said shares with interest thereon; any surplus shall be paid to his [this] delinquent or his representative. If there be no sale for want of bidders, or if the sale shall not produce enough to pay the charges, and the money which ought to be paid with interest, the company may recover against such stockholder whatever may remain unpaid with interest thereon, by warrant, action or motion as aforesaid. Payments.

SEC. 17. *Be it further enacted,* That no stock shall be assigned on the books of the company without its consent, until all the money which has become payable thereon shall have been paid, and on any assign- Assignments regulated.

ment, the assignee and the assignor shall each be liable for any instalment which may have accrued or which may thereafter accrue, and may be proceeded against in the manner before provided. A person in whose name shares of stock stand on the books of the company shall be deemed the owner thereof as it regards the company.

Certificates.

SEC. 18. *Be it further enacted*, That the president and directors shall issue to each person appearing on the books of the company as owner of any shares of stock fully paid in, a certificate for such shares under the seal of the company, signed by the president and countersigned by the treasurer. If any such person shall, for valuable consideration, sell, pledge, or otherwise dispose of any of his shares of stock to another, and deliver to him the certificate for such shares with a power of attorney authorizing the transfer of the same on the books of the company, the title of the former, both in law and equity, shall vest in the latter so far as may be necessary to effect the purpose of the sale, pledge, or other disposition, not only as between the parties themselves, but also as against the creditors of any subsequent purchaser from the former, subject to the provisions of the latter clause of the 16th section. The person to whom any such certificate may be issued, may return the same to the office of the company, and in person or by an attorney acting under a power from him, assign on the books of the company either the whole number of shares mentioned in such certificate or a less number. The certificate so returned shall be cancelled and filed in the company's office; and thereupon so many new certificates shall be issued and to such person or persons as may be proper in the case.

SEC. 19. *Be it further enacted,* That when a ^{Loss of certificate.} person to whom such certificate has been issued alleges it to have been lost, he shall file in the office of the company : first, an affidavit setting forth the time place and circumstances of the loss ; second, proof of his having advertised the same in a newspaper once a week for two months ; and third, a bond to the company with one or more sufficient sureties conditioned to indemnify all persons against any loss in consequence of issuing a new certificate in place of the former, and thereupon the board may direct such new certificate and the same shall be issued accordingly.

SEC. 20. *Be it further enacted,* That the board ^{Dividends.} shall semi-annually declare dividends of so much of the nett profits of the company as it may deem prudent to divide. If any stockholder be indebted to the company, his dividend or so much as may be necessary, shall be passed to his credit in payment of the debt.

SEC. 21. *Be it further enacted,* That if the board ^{Dividend of capital stock.} shall declare a dividend of any part of the capital stock of the company, all the members of the board who shall be present and not dissent therefrom, shall in their individual capacity, be jointly and severally liable to the company's creditors for the amount of capital so divided, and may be decreed against therefor or a bill in equity, filed in behalf of such creditors, and moreover each stockholder who shall participate in such dividends shall be liable to such creditors to the extent of the capital stock so received by him.

SEC. 22. *Be it further enacted,* That of every ^{Notice.} dividend declared and of the time and place appointed for the payment thereof, the board shall cause notice

to be published in some newspaper printed in the city of Norfolk in January, 1855, and once in every five years thereafter, the board of directors shall publish in such newspaper a list of all dividends which have remained unpaid for two years or more, with the names of the persons to whose credits such dividends stand. Every such notice or list shall be published in three successive [respective] newspapers.

Transportation

SEC. 23. *Be it further enacted,* That the said company shall have the exclusive right of transportation on its road; shall keep in good order such locomotives, cars and other things as may be proper for that purpose, and shall, upon the payment or tender of the rate of toll prescribed by law, transport and deliver at any depot or other regular stopping place indicated by the owner, such articles as shall be delivered or offered at any depot or receiving place in proper condition to be transported. The property of all persons shall, as far as practicable, be transported in the order of time in which it shall be delivered or offered and the tolls paid or tendered.

Failure to
transport, &c.

SEC. 24. *Be it further enacted,* That if the said company shall, after the payment or tender of the lawful tolls, fail to receive or to transport or deliver, in a reasonable time, any property so delivered or offered, or fail to take or set down any passenger at such depot or other regular stopping place as he may desire, or if the said company shall demand and receive more than is lawful, it shall forfeit to the injured party a sum to be recovered by motion or action of not less than twenty-five nor more than one hundred dollars.

SEC. 25. *Be it further enacted*, That the said Telegraph. company may construct and maintain along the line of its improvements an electric telegraph for its own use and that of the public, and make charges on messages and intelligence conveyed thereby.

SEC. 26. *Be it further enacted*, That the presi- Branches. dent and directors of said company may cause to be made, in connection with its road, branch railroads or lateral works, not exceeding two miles each in length; and under a resolution adopted in general meeting by two-thirds of all the votes of all the stockholders, may cause to be made branch railroads not exceeding ten miles in length; but nothing herein contained shall be so construed as to authorize any change in the location of the northern terminus of the Seaboard and Roanoke Railroad, but the same shall be continued in the town of Portsmouth as at present required by law; nor shall anything herein contained be so construed as to authorize any change in the southern terminus of said road, but the same shall continue to be connected with the Raleigh and Wilmington Railroad at Weldon, as required by the original charter.

SEC. 27. *Be it further enacted*, That whenever Reduction of the rates of tolls and transportation charged by the toll. company shall enable the president and directors, after the payment of all necessary expenses, and after setting apart a fair and reasonable sum for the repairs of the said road, warehouses, and depots, and other constructions, and of the machines, cars, and other vehicles of transportation, to divide more than fifteen *per cent. per annum* on their capital stock invested, and the said rules of toll and transportation shall be so reduced by the said president and directors as to enable them to divide fifteen *per cent.* and no more.

Sales and conveyances.

SEC. 28. *Be it further enacted,* That if a sale shall be made under a deed of trust or mortgage, executed by the said company on all its works and property, and then by a conveyance pursuant thereto, such sale and conveyance shall pass to the purchaser at the sale not only the works and property of the said company as they were at the time of making the deed of trust or mortgage, but any works which the said company may after that time and before the sale have constructed, and all other property of which it may be possessed at the time of the sale, other than debts due to it; upon such conveyance to the purchaser, the said company shall be *ipso facto* dissolved, and the said purchaser shall forthwith be a corporation by any name which may be set forth in the said conveyance or in any writing signed by him and recorded in the court in which the conveyance shall be recorded.

Rights and privileges.

SEC. 29. *Be it further enacted,* That the corporation created by or in consequence of such sale, and conveyance shall succeed to all such franchises, rights and privileges and perform all such duties as would have been had or should have been performed by the Seaboard and Roanoke Railroad Company, but for such sale and conveyance, save only that the corporation so created shall not be entitled to the debts due to the said Seaboard and Roanoke Railroad Company, and shall not be liable for any debts or claims against the said Seaboard and Roanoke Railroad Company which may not be expressly assumed in the contract of purchase, and that the whole profits of the business done by such corporation shall belong to the said purchaser and his assigns. His interest in the company shall be personal estate, and he or his assigns may create so many shares of stock therein as he or

they may think proper, not exceeding together the amount of stock in the said Seaboard and Roanoke Railroad Company at the time of the sale, and any debts liquidated thereby and assign the same in a book kept for the purpose; the said shares shall thereupon be on the footing of shares in joint stock companies generally, except only that the first meeting of the stockholders shall be held on such day and at such place as shall be fixed by the said purchaser, of which notice shall be published for two weeks in a newspaper in the city of Norfolk: *Provided, nevertheless,* ^{Pioviso.} That nothing herein contained shall authorize the sale or transfer of any interest which the Seaboard and Roanoke Railroad Company may have acquired by its subscription of seventy-five thousand dollars to the Raleigh and Gaston Railroad Company, for the construction of a railroad from the said Raleigh and Gaston Railroad, so as to connect with said Seaboard and Roanoke Railroad and the Raleigh and Wilmington Railroad at or near the town of Weldon, except it be on the express condition that the purchaser or purchasers, their successors and assigns shall subscribe, pay and expend the one half of such additional sum as may be necessary for the construction of said road from the Raleigh and Gaston Railroad to the said town of Weldon on or before the first day of August next, otherwise the sum already expended shall be forfeited to the State of North Carolina, and the State shall be, and is hereby required to complete the said railroad connexion within the time aforesaid.

Sec. 30. *Be it further enacted,* That in lieu of ^{Rates of charging.} the present tolls established by law, the company shall have the right to charge and receive for their own use and benefit, not exceeding five cents per mile for pas-

sengers, except for distances under ten miles, for which, however short, they may charge fifty cents. That on merchandize and commodities generally, the charge shall not exceed eight cents per ton per mile, and shall not exceed twice this rate for horses, cattle and other live stock, carriages, gigs, wagons, carts, and other vehicles or specie or bullion or any goods in boxes or bales or wool or crates, china, wooden, earthen, glass and stone-ware, cabinet-ware or furniture, and on bulky articles averaging less than forty pounds per cubic foot, they shall be authorized to demand and receive a toll on each cubic foot as for forty pounds weight; on gypsum, lime and salt in parcels of three tons and upwards, the tolls shall not exceed four cents per ton per mile, except for distances under ten miles: *And provided*, That for any single article, however small a parcel, or short a distance carried, may be charged twenty-five cents, and for the transportation of the mail of the United States, such sum as may be agreed upon by the company, and the proper department of the United States.

Repeal of
Conflicting
acts.

SEC. 31. *Be it further enacted*, That all acts and parts of acts, inconsistent with the provisions of this act, are hereby repealed.

[Read three times and ratified in General Assembly
this 29th day of November, A. D., 1852.]

CHAPTER CXLIV.

AN ACT DIRECTING THE DIVIDENDS ON THE STOCK OF THE STATE IN THE WILMINGTON AND MANCHESTER RAILROAD COMPANY TO BE PAID INTO THE TREASURY AS PART OF THE LITERARY FUND.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the dividends on the stock of the State in the Wilmington and Manchester Railroad Company, when paid into the treasury of the State, is hereby declared to be a part of the literary fund, and shall be paid out and distributed by the literary board in the manner now prescribed by law for the distribution of the other funds belonging to said board. Dividends

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

CHAPTER CXLV.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE WILMINGTON AND MANCHESTER RAILROAD COMPANY."

State directors.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the State shall be represented by one director in the board of directors of the Wilmington and Manchester Railroad Company, and said director on the part of the State shall be annually appointed by the board of internal improvement, and shall be a *bona fide* stockholder in said company at the time of his appointment.

Agent.

SEC. 2. *Be it further enacted,* That the board of internal improvement shall likewise appoint an agent to represent the State, and vote on behalf of the stock of the State in all the general meetings of the stockholders of said company; and if the individual stockholders shall accept the amendment to the charter of said company as proposed in the foregoing section, and shall agree that the State may hereafter appoint one director as hereinbefore provided, then the said agent on behalf of the State shall not be authorized to vote in the election for the remaining directors who are to be appointed by the individual stockholders.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

CHAPTER CXLVI.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO AMEND AN ACT INCORPORATING THE WILMINGTON AND RALEIGH RAILROAD COMPANY."

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the board of internal improvement shall hereafter appoint three directors, and no more, to represent the State in the board of directors of the Wilmington and Raleigh Railroad Company. Directors.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

CHAPTER CXLVII.

AN ACT TO INCORPORATE A COMPANY TO CONSTRUCT A RAILROAD FROM SOME POINT ON THE CAPE FEAR RIVER AT OR NEAR FAYETTEVILLE, TO SOME POINT IN THE COAL REGIONS, HEREAFTER TO BE DETERMINED.

Formation
authorized.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That for the purpose of establishing a communication by railroad, between the town of Fayetteville, and the coal region in the counties of Moore and Chatham, at some point to be hereafter determined, the formation of a corporate company, with a capital of five hundred thousand dollars, is hereby authorized, to be called "The Western Railroad Company," and when formed, in compliance with the conditions hereinafter prescribed, to have a corporate existence as a body politic in perpetuity.

Authority to
construct road.

SEC. 2. *Be it further enacted,* That the said company be, and the same is hereby authorized to construct a railroad from the town of Fayetteville to some point in the coal region, in the county of Moore, or in the county of Chatham, to be determined by said company after the same shall have been formed.

Books to be
opened.

SEC. 3. *Be it further enacted,* That for the purpose of raising the capital stock of said company, it shall be lawful to open books in the town of Fayetteville under the direction of the following commissioners, to wit: Duncan G. McRae, Jesse G. Shepperd, James

Kyle, William H. Haigh, John Eccles, George McNeill, Thomas S. Lutterloh, John H. Cook, Edward J. Hale, Benjamin W. Robinson, Robert R. Bryan, Robert Strange and David A. Ray; in the town of Wilmington under the direction of P. K. Dickson, Thomas H. Wright, John A. Taylor, Gilbert Potter, John McRae, Sen., O. G. Parsley, A. J. Derosset, Jun., Robert W. Brown and D. K. McRae, and at such other places and under the direction of such persons as a majority of the commissioners, first above named, may deem proper for the purpose of receiving subscriptions to an amount not exceeding five hundred thousand dollars, in shares of one hundred dollars each.

SEC. 4. *Be it further enacted*, That the commissioners above named, and all other persons who may hereafter be authorized as aforesaid to open books for subscriptions, shall open the same at any time after the ratification of this act, first giving twenty days' notice thereof, of the time and place, in one or more of the newspapers printed in Fayetteville and Wilmington, and the said books, when opened, shall be kept open for the space of sixty days at least, and as long thereafter as the commissioners first above named shall direct; and the said first named commissioners shall have power to call on and require all persons empowered to receive subscriptions of stock, at any time and from time to time, as a majority of them may think proper, to make return of the subscriptions of stock by them respectively received.

Advertisment
of time and
place.

SEC. 5. *Be it further enacted*, That whenever the sum of one hundred thousand dollars shall be subscribed in manner and form aforesaid, the subscribers, their executors, administrators, or assigns, shall be and

Corporate title

they are hereby declared incorporated into a company by the name and style of the "Western Railroad Company," and by that name shall be capable in law and equity of purchasing, holding, selling, leasing, and conveying estates, real, personal, and mixed, and of acquiring the same by gift or devise, so far as shall be necessary for the purposes embraced within the scope, object, and interest [intent] of their charter, and no further, and shall have perpetual succession; and by their corporate name may sue and be sued, plead and be impleaded, in any court of law and equity in this State, and may have and use a common seal, which they may alter and renew at pleasure, and shall have and enjoy all other rights and immunities which other corporate bodies may and of right do exercise, and make all such by-laws, rules, and regulations as are necessary for the government of the corporation, or effecting the object for which it was created, not inconsistent with the constitution and laws of the State.

General meet-
ing.

SEC. 6. *Be it further enacted*, That it shall be the duty of the commissioners named in this act for receiving subscriptions in Fayetteville, or a majority of them, as soon as the sum of one hundred thousand dollars shall have been subscribed in manner aforesaid, to give public notice thereof, and at the same time call a general meeting of the stockholders, giving at least thirty days' notice of the time and place of meeting, at which meeting, a majority of the stockholders being represented in person or by proxy, shall proceed to elect a president and treasurer and nine directors out of the number of stockholders; and the said directors shall have power to perform all the duties necessary for the government of the corporation and the transaction of its business; and the persons elected as

aforesaid shall serve such period, not exceeding one year, as the stockholders may direct; and at that meeting the stockholders shall fix on the day and place or places where the subsequent election of president, treasurer, and directors shall be held, and such election shall thenceforth be annually made; but if the day of the annual election of officers should, under any circumstances, pass without an election, the corporation shall not thereby be dissolved, but the officers formerly elected shall continue in office until a new election takes place.

SEC. 7. *Be it further enacted*, That the election of officers aforesaid shall be by ballot, each stockholder having as many votes as he has shares in the stock of the company, and the person having the greatest number of votes polled shall be considered duly elected to the office for which he is nominated, and at all elections, and upon all votes taken at any meeting of the stockholders upon any by-law or any of the affairs of the company, each share of stock shall be entitled to one vote, to be represented either in person or by proxy, and proxies may be verified in such manner as the by-laws of the company prescribe. Mode of voting

SEC. 8. *Be it further enacted*, That the board of directors may fill any vacancies which may occur in it during the period for which they have been elected, and in the absence of the president may appoint a president *pro tempore* to fill his place. Vacancies.

SEC. 9. *Be it further enacted*, That the board of directors may call for the sums subscribed as stock in said company in such instalments as the interest of said company may, in their opinion require; the call Requisitions.

for each payment shall be published in one or more newspapers of the State for one month before the day of payment, and on failure of any stockholder to pay each instalment as thus required, the directors may sell at public auction, on a previous notice of ten days, for cash, all the stock subscribed for in said company by such stockholder, and convey the same to the purchaser at said sale, and if the said sale of stock do not produce a sum sufficient to pay off the incidental expenses of the sale, and the entire amount owing by such stockholder to the company for such subscription of stock, then and in that case, the whole of such balance shall be held as due at once to the company, and may be recovered of such stockholder or his executor, administrator or assigns at the suit of said company, either by summary motion in any court of superior jurisdiction in the county where the delinquent resides, on previous notice of ten days to said subscriber or by the action of assumpsit in any court of competent jurisdiction or by warrant before a justice of the peace, where the sum does not exceed one hundred dollars, and in all cases of assignment of stock, before the whole amount has been paid to the company, then for all sums due on such stock, both the original subscriber and the first and all subsequent assignees shall be liable to the company and the same may be recovered as above described.

Debt of stock-
holders.

SEC. 10. *Be it further enacted,* That the debt of the stockholders due to the company for stock, then in either as original proprietor or as first or subsequent assignee, shall be considered as of equal dignity with judgments in the distribution of assets of a deceased stockholder by his legal representatives.

SEC. 11. *Be it further enacted,* That the said Certificate. company shall issue certificates of stock to its members, and said stock may be transferred in such manner and form as may be directed by the by-laws of the company.

SEC. 12. *Be it further enacted,* That the said Increase of capital stock: company may at any time increase its capital stock to a sum sufficient to complete said road, not exceeding the additional sum of five hundred thousand dollars, by opening books for the subscription of new stock or borrowing money on the credit of the company and on the mortgage of its charter and works, and the manner in which the same shall be done in either case shall be prescribed by the stockholders.

SEC. 13. *Be it further enacted,* That the said Authority to use road as completed. company shall have power of using any section of the said road constructed by them before the whole of said road shall be completed, and may charge for transportation thereon.

SEC. 14. *Be it further enacted,* That all con- Contracts. tracts or agreements authenticated by the president and secretary of the board shall be binding on the company, with or without a seal. Such a mode of authentication shall be used as the company by their by-laws may adopt.

SEC. 15. *Be it further enacted,* That the said Authority to hold property. company may purchase, have and hold in fee or for a term of years any lands, tenements or hereditaments which may be necessary for the said road, or for the erection of depositories, storehouses, houses for the officers, servants or agents of the company, or for

work-shops or foundries to be used by the company, or for procuring stone or other material necessary to the construction of the road, or effecting transportation, and for no other purpose whatever.

Right to cross
other roads.

SEC. 16. *Be it further enacted*, That the company shall have the right, when necessary, to construct the said railroad across any public road or along the side of any public road: *Provided*, That the said company shall not obstruct any public road without first constructing one equally as good and as convenient as the one taken by said company.

Lands for lo-
cation of road,
&c.

SEC. 17. *Be it further enacted*, That when any lands or right of way may be required by the said company for the purpose of constructing their road, building, warehouses, water stations, work-shops or depositories, and for want of agreement as to the value thereof, or from any other cause, the same cannot be purchased from the owner or owners, the same may be taken at a valuation to be made by a jury of good and lawful men, to be summoned by the sheriff of the county in which the land required by the company may lie, and in making the said valuation the said jury shall take into consideration the loss or damage which may occur to the owner or owners in consequence of the land or the right of way being surrendered and the benefit and advantage he, she or they may receive from the erection of the said road, &c.; and shall state particularly the value and amount of each and the excess of loss or damage over and above the advantage and benefit; shall form the measure of valuation of said land or right of way: *Provided*, nevertheless, That if any person or persons over whose land the said road may pass, or the company should be

dissatisfied with the valuation thus made, then and in that case either party may have an appeal to the next court of the county to be held thereafter, and the sheriff shall return to the said court the verdict of the jury, with all their proceedings thereon, and the lands or right of way so valued by the jury shall vest in the said company so long as the same shall be used for the purposes of said railroad, so soon as the valuation may be paid, or, if resused, paid over to the clerk of the county court: *Provided*, That the right of condemnation shall not authorize the said company to invade the dwelling-house, yard, garden or grave yard of any individual without his consent.

SEC. 18. *Be it further enacted*, That the right of said company to condemn land in the manner described in the above section shall extend to the condemnation only of one hundred feet on each side of the main tract of the road, meandering from the centre of the same, unless in case of deep cuts and fillings, when said company shall have power to condemn as much in addition thereto as may be necessary for the purpose of constructing said road, and the company in like manner shall have power to condemn any appropriate lands for the constructing and building of depots, shops, &c., not exceeding five acres in one lot or station.

How much may be condemned.

SEC. 19. *Be it further enacted*, That the said company shall have the exclusive right of conveyance or transportation of persons, goods, merchandize, produce and coal over said road. at such charges as may be fixed on by a majority of the directors.

Right of conveyance.

Profits.

SEC. 20. *Be it further enacted,* That the profits of the company, or so much thereof as the board of directors may deem advisable, shall, when the affairs of the company will permit, be annually or semi-annually divided among the stockholders in proportion to the stock each may own.

Notice of process.

SEC. 21. *Be it further enacted,* That notice of process upon the president or any of the directors thereof, shall be deemed and taken, to be due and lawful notice of services of process upon the company.

Branches.

SEC. 22. *Be it further enacted,* That said company shall have power to construct branches to said road, or to connect with any other railroad that may be constructed, and any contract that may be entered into with any other railroad company by the president and directors of said company, after the consent of a majority of the stockholders first obtained, shall be binding on the said company.

Bonds.

SEC. 23. *Be it further enacted,* That it may and shall be lawful for the said "Western Railroad Company," to make and issue bonds to an amount not exceeding four hundred thousand dollars, to be signed by the president of said company, under the common seal of the same, in sums of one thousand dollars each, bearing interest at the rate of seven per cent. per annum, to be paid semi-annually in the city of New York or Boston, at their option, and redeemable in the year 1875.

Mortgage.

SEC. 24. *Be it further enacted,* That to secure the faithful payment of the said bonds, it may and shall be lawful for the president and directors of the "Wes-

tern Railroad Company," to make, execute and deliver to such person, either in the city of New York or Boston, as the said company may select and appoint, a deed of trust or mortgage under the common seal of said company, wherein shall be conveyed to the person thus appointed trustee, the road, property, income and franchises of said company, acquired or to be acquired, conditioned for the payment of the interest and final redemption of said bonds.

SEC. 25. *Be it further enacted*, That all the officers of the company and servants and persons in the actual employment of the company be, and they are hereby exempt from performing ordinary militia duty, working on public roads and serving as jurors. Exemption
from military
duty, &c.

SEC. 26. *Be it further enacted*, That all the work hereby required shall be executed with due diligence, and if [it] be not commenced within four years after the ratification of this act, then this charter shall be void. Condition of
charter.

SEC. 27. *Be it further enacted*, That this act shall be in force from and after its ratification, and shall be regarded as a public act and be continued in force until the year nineteen hundred. Duration of
charter.

[Read three times and ratified in General Assembly
this 24th day of December, A. D., 1852.]

REAL ESTATE.

CHAPTER CXLVIII.

AN ACT TO AMEND AN ACT PASSED AT THE SESSION OF 1846-47, ENTITLED "AN ACT TO MAKE REAL ESTATE ASSETS."

Per cent.
charged.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the 19th section of said act, which provides for the payment of commissions to executors and administrators for selling real estate, be amended by striking out the words "two and a half per centum," and inserting in lieu thereof the words "five per centum."

SEC. 2. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

CHAPTER CXLIX.

AN ACT TO PROVIDE FOR A RE-ASSESSMENT OF THE REAL ESTATE WITHIN THE CORPORATE LIMITS OF THE TOWN OF ROCKINGHAM [ROCKFORD] IN THE COUNTY OF SURRY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be the duty of the county court of Surry, to cause a re-assessment to be made of the real estate within the corporate limits of the town of Rockford in the year 1853, according to the provisions of an act entitled "An act to provide for a re-assessment of the lands of this State, and a more accurate enlistment of the taxable polls," passed by the General Assembly at its session of 1846-47. Duty of the
County Court
of Surry.

SEC. 2. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly
this 27th day of December, A. D., 1852.]

REGISTERING GRANTS, &c.

CHAPTER CL.

AN ACT TO EXTEND THE TIME FOR REGISTERING GRANTS, MESNE CONVEYANCES, POWERS OF ATTORNEY, BILLS OF SALE AND DEEDS OF GIFT.

When deeds,
&c., may be
registered.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That all grants of land in this State, all deeds of mesne conveyance, powers of attorney under which any lands, tenements or hereditaments have been or may be conveyed, all powers of attorney which are required to be proved and registered by any act of the General Assembly, all bills of sale, deeds of gift already proved, or which may hereafter be proved, shall and may, within two years after the passage of this act, be admitted to registration under the same rules, regulations and restrictions as heretofore appointed by law; and said grants, deeds of mesne conveyance, powers of attorney, bills of sale and deeds of gift shall be as good and valid as if they had been proved and registered within the time heretofore allowed: *Provided,* That nothing herein contained shall be construed to extend to mortgages and conveyances in trust or marriage settlements.

Provide.

[Read three times and ratified in General Assembly, this 17th day of December, A. D., 1852.]

OF THE SESSION OF 1852.

ROADS.

CHAPTER CLI.

AN ACT TO PROVIDE FOR THE IMPROVEMENT OF THE ROAD FROM REDDIE'S RIVER TO THE TENNESSEE LINE.

SEC. 1. *Be it enacted by the General Assembly* Commissioners *of the State of North Carolina, and it is hereby enacted by the authority of the same,* That Joshua Pinnel and Stephen Thomas, of the county of Ashe, be and are hereby appointed commissioners to survey, ascertain, and designate the necessary alterations and improvements in the public road from the summit of the Deep Ford Hill on Reddie's River, by the way of Jefferson, in Ashe county, to the Tennessee line, and it shall be the duty of the said commissioners so to lay off the proposed alterations in said road that in the parts so altered, when constructed, there shall not in any part be a greater ascent than one foot to fifteen feet horizontal.

SEC. 2. *Be it further enacted,* That the county Alterations, &c. court of Wilkes county, and the county court of Ashe county, shall have the power, each in their respective counties, to order out the hands liable to work on roads, for the purpose of making the alterations and improvements in said road as designated and laid off by the aforesaid commissioners, and said courts, each in its own county, shall appoint a due number of overseers, who shall have the power and authority of the

regular overseers of roads, and whose duty it shall be, under the orders of their respective courts, to call out the hands and superintend their work.

Appropriations
of lands.

SEC. 3. *Be it further enacted*, That such sums of money as shall be hereafter paid into the public treasury, for and during the five years next and ensuing the ratification of this act, not exceeding three thousand dollars, for vacant lands lying in Wilkes county, and that part of Ashe county west of a line running from a point in the Virginia line due north of the fork of New River, south to the said fork, thence up the south fork of New River to the mouth of Prather's Creek, then to Prather's Storehouse, then with the road known as the Mulberry Road to the top of the Blue Ridge, shall be appropriated to the improvement and keeping in repair the said road, and to the construction and keeping in repair the necessary bridges thereon, and shall be paid over by the public treasurer to the commissioners of said road, and it shall be their duty to receive said sums of money and all contributions that shall be made for work on said road by individuals by the county courts of Wilkes county and Ashe county, and apply them towards completing the improvements and keeping up the repairs and making and continuing the necessary bridges on said road. One half of the sum received by them from the public treasurer shall be applied to that part of the said road that lies in Wilkes county, and the other half to that part of the road that lies in Ashe county. The said commissioners shall let the contracts for the work on said road to the lowest bidder, and shall take bond and approved security from each contractor, payable to the State of North Carolina, conditioned for the faithful performance of his contract, and for the

breach of the condition of such bond, suit may be prosecuted in the name of the State, and the commissioners shall receive all sums that may be recovered in such suit and all sums that may be paid on such bonds and apply them to the payment of work done on said road.

SEC. 4. *Be it further enacted*, That it shall be the duty of the county courts of Wilkes and Ashe, to appoint the hands and overseers to work on said road, as heretofore not less than six days in each year, under the like penalties and regulations as are prescribed for other road overseers and hands, according to the public statutes, in such cases provided, except as hereinafter expressed. Overseers and hands.

SEC. 5. *Be it further enacted*, That the said commissioners and their successors shall for, and during the next six years have the supervision of said road, determine and direct the improvements and repairs to be made thereon, and assess the labor to be done thereon, by the overseers and hands appointed to work on the same; and the overseer, who, after having received in writing five days' notice to summon their quota of hands to do labor on said road, the amount and nature of said labor being specified in such notice, shall fail to summon his hands as required and having summoned them, shall fail to proceed in good faith to have the specific work done, shall forfeit and pay the sum of five dollars for such failure, and shall also forfeit and pay the sum of one dollar for the default of each hand to attend and labor on said road on the summons of the overseer, in pursuance of the notices of the commissioners without sufficient reason, unless such overseer shall prosecute suit against such Inattentive overseers.

defaulting hands and pay over the amount of the recoveries to the commissioners; the penalties hereby imposed may be recovered by warrant before any justice of the peace of such overseer's county in the name of the said commissioners.

Commissioners
to give bond,
&c.

SEC. 6. *Be it further enacted*, That the commissioners herein named, and those hereafter appointed, shall before the county court of the county in which they may reside give bond with security in the sum of one thousand dollars each payable to the State of North Carolina, conditioned for the faithful performance of the duties imposed upon them by this act, and said bonds shall remain and be kept by the clerks of the respective counties among the records of his office, and for breach thereof, suits shall be prosecuted in the name of the State and for the use of the State by the solicitor of the State in the superior court.

Refusal to serve
and vacancies.

SEC. 7. *Be it further enacted*, That in case the commissioners herein named, shall refuse to accept the appointment, as such other persons shall be appointed in their places, one by the county court of Wilkes and the other by the county court of Ashe, and in case only one of them refuse to act, or a vacancy shall otherwise occur, it shall be filled by the county court of Wilkes, and thereafter the second and each alternate vacancy shall be filled by the county court of Ashe, and the other by the county court of Wilkes, and the commissioners appointed under the provisions of this section shall have the same powers and be subject to the same liabilities as are prescribed for the commissioners named in this act.

SEC. 8. *Be it further enacted*, That the commissioners of said road for the services rendered in pursuance of this act, shall receive for each day expended in such service a compensation, to be regulated by the county court of Ashe, a majority of the justices of said county court being present, not exceeding two dollars per day, to be retained out of any monies in their hands appropriated to the use of said road.

Compensation
of commission-
ers.

SEC. 9. *Be it further enacted*, That the said commissioners shall, on or before the first Monday in June in each and every year, render an account of all sums of money received under the provisions of this act to the finance committee for the county of Ashe, or other committee appointed by the court of said county to settle the accounts of said commissioners, in which they shall state how the same shall have been applied, and show how much cash to individuals, and shall produce satisfactory vouchers for all payments; and it shall be the duty of said committee to examine and pass upon said account and file it in the office of Ashe county court.

Report of
commissioners

SEC. 10. *Be it further enacted*, That this act shall be in force from and after the ratification of the same.

[Read three times and ratified in General Assembly,
this 25th day of December, A. D., 1852.]

CHAPTER CLII.

AN ACT TO ESTABLISH A ROAD IN CATAWBA COUNTY.

Public road
established.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the new-cut road leading from the Catawba Toll-Bridge to the town of Newton be re-established and declared a public road under all the rules, restrictions and regulations as was [were] provided in the act of 1848 incorporating "The Catawba Toll-Bridge Company."*

SEC. 2. *Be it further enacted, That this act shall be in force from and after its ratification.*

[Read three times and ratified in General Assembly, this 8th day of November, A. D., 1852.]

CHAPTER CLIII.

AN ACT TO IMPROVE THE PUBLIC ROAD LEADING FROM HOLMAN'S FORD, ON THE YADKIN RIVER, IN WILKES COUNTY, BY WAY OF DEEP GAP OF THE BLUE RIDGE, AT SOLOMON GREENE'S AND THE RICH MOUNTAIN, NEAR WELCHE'S STORE, TO THE TENNESSEE LINE.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That Thomas Fergeson, James C. Horton and A. M. Foster, be, and are hereby appointed commissioners to view, lay off, alter or amend in such manner as to them may seem fit, so much of the public road leading from Holman's Ford, by way of the Deep Gap to the Tennessee line, as may lie and be within the limits of the county of Wilkes. Names of
Commissioners,

SEC. 2. *Be it further enacted,* That Alfred Miller, Jonathan Horton, James Ragen, M. T. Coxe and Reuben Mast, be, and they are hereby appointed commissioners to view, lay off, alter or amend, so much of the road described in the first section of this act, as lies within the limits of the county of Watauga.

SEC. 3. *Be it further enacted,* That it shall be the duty of the commissioners named in the first and second sections of this act, at as early a time as practicable, to enter upon and discharge the duties assigned them, and make report thereof in writing, to the county courts of their respective counties. Report.

Overseers.

SEC. 4. *Be it further enacted*, That when the commissioners aforesaid, shall have made reports to the county courts of their respective counties, and the same shall have been confirmed, it shall be the duty of the county courts of the said counties of Wilkes and Watauga, to appoint overseers, and assign to them such a number of hands now liable by law to work on public roads, as may be necessary to make the alterations and improvements suggested in the report of the commissioners.

Hands.

SEC. 5. *Be it further enacted*, That the hands assigned under this act by the court shall be notified by the overseers in the same manner that notices are now required to given by law to hands liable to work on public roads, and in case of failure on the part of said hands to work, they shall be liable to the same penalties now imposed by law in other cases of failure.

Compensation.

SEC. 6. *Be it further enacted*, That it shall be the duty of the county courts of Wilkes and Watauga counties, to allow the commissioners named in this act such compensation for their services as to them may seem meet, which allowance shall be paid in the same manner with other county claims.

SEC. 7. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

CHAPTER CLIV.

AN ACT TO LAY OFF AND ESTABLISH A PUBLIC ROAD FROM LINCOLNTON TO GREENVILLE, SOUTH CAROLINA.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That James H. White, of the county of Gaston, Joseph W. Sullivan, of the county of Cleaveland, and Hartwell Wall, of the county of Rutherford, be and they are hereby appointed commissioners to view and lay off a road, beginning at the old post road in Gaston county, near Stephen Blacks; thence the most direct and practicable route to Shelby, in Cleaveland county, by way of Fronebarger's Paper Mill, on Buffalo Creek, and from Shelby along the stage road to John Logan's, on Sandy Run; thence the nearest and best way to the Island Ford on Broad River, in Rutherford county; thence to the South Carolina line, in the direction of Greenville.

Names of
commissioners.

SEC. 2. *Be it further enacted,* That before the said commissioners shall enter upon the duties of their appointment, they shall take an oath before some justice of the peace of one of the counties aforesaid to examine and lay off said road the best and most convenient way, having due regard to private property as well as the public good.

Oath required.

SEC. 3. *Be it further enacted,* That when said road shall be laid off, it shall be the duty of said commissioners to make a report thereof to the county court of Gaston, Cleaveland and Rutherford county, under

Report.

their hands and *seals*; and upon the report of the commissioners aforesaid, the county courts of the several counties aforesaid, shall have power, and are hereby authorized to appoint overseers with suitable allotments of the road in their respective counties, and that all hands living within three miles of said road, are hereby declared liable to work in opening said road; the said hands and overseers being subject to the same penalties and pains now provided by law in other cases for neglect of duty.

Damages.

SEC. 4. *Be it further enacted,* That should any damages be sustained in laying off said road, the same shall be assessed in the manner now prescribed by law in such cases.

Compensation.

SEC. 5. *Be it further enacted,* That the commissioners appointed under this act shall be entitled to receive for their services in laying off said road, two dollars each for every day they may be necessarily employed, to be adjudged of the court and allowed as other county claims.

[Read three times and ratified in General Assembly
this 27th day of December, A. D., 1852.]

CHAPTER CLV.

AN ACT TO ESTABLISH A PUBLIC ROAD IN THE COUNTY OF MADISON.

SEC. 1. *Be it enacted by the General Assembly of* Commissioners. *the State of North Carolina, and it is hereby enacted by the authority of the same,* That John E. Patton, Josiah Askew, L. A. B. Duckett, William Brown, Jeremiah Davis, Joseph Lusk, and Alexander Baldwin, of the county of Madison, be, and they are hereby appointed commissioners to lay off and establish a public road, beginning at Jonathan Woody's, on the waters of Spring Creek, and crossing the dividing ridge between Spring Creek and Shutin, thence down said Shutin to James Price's, thence the most direct route to Samuel Miller's, on the Old State Road, thence with the Old State Road to the Tennessee State line, all in the said county of Madison.

SEC. 2. *Be it further enacted,* That the said commissioners, or a majority of them, be authorized and empowered to open books of subscription in such places in the county of Madison as they may deem proper, on giving thirty days' notice, and when the sum of two hundred dollars shall have been subscribed by individuals and secured to be paid either in money or labor, to be performed for reasonable compensation in the completion of said road, then the commissioners appointed shall be empowered to commence said road either under their own superintendence or by letting out contracts for the same to the lowest bidder. Books to be opened.

Conditions of
appropriation.

SEC. 3. *Be it further enacted*, That when the said commissioners shall certify to the treasurer of the Buncombe Turnpike Company that before entering upon the discharge of their duties, they have taken the oath hereinafter provided for, and shall have furnished to the said treasurer of said Buncombe Turnpike Company the certificate of the magistrate administering said oath to said commissioners under his seal as a justice of the peace, and shall further certify to said treasurer that the said road has been completed, and that the two hundred dollars aforesaid has been paid either in money or labor expended in the completion of said road, then it shall be the duty of the treasurer of said Buncombe Turnpike Company to pay to said commissioners the sum of six hundred dollars, as the same shall be declared due from time to time, as the dividends accruing to the State on the stock held in the said Buncombe Turnpike Road.

Appropriation.

SEC. 4. *Be it further enacted*, That the sum of six hundred dollars of the first dividends arising from the State's stock in the Buncombe Turnpike Road, be and the same is hereby appropriated to the purpose aforesaid, subject to the foregoing conditions.

Oath required.

SEC. 5. *Be it further enacted*, That the commissioners aforesaid, before commencing said road, or letting out contracts for the same, shall take an oath before some justice of the peace for the county of Madison, faithfully to discharge their duties in strict accordance with the provisions of this act.

[Read three times and ratified in General Assembly,
this 25th day of December, A. D., 1852.]

CHAPTER CLVI.

AN ACT APPOINTING COMMISSIONERS TO LAY A ROAD OFF FROM SALISBURY TO THE VIRGINIA PUBLIC ROAD AT THE MOUTH OF WILSON.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That Samuel Reeves, of the county of Rowan; Braxton Baile, of the county of Davie; Fletcher A. Harris, of the county of Yadkin; William Fentress, of the county of Surry; Franklin Johnson, of the county of Wilkes, and Morgan Bryan, Sen'r., of the county of Ashe, be, and they are hereby appointed commissioners to view, locate and mark off a public road from Salisbury, in Rowan county, via Moeksville, in Davie county, Hamptonville and Jonesville, in Yadkin county, crossing the Blue Ridge at the Roaring Gap and passing Gap Civil in Ashe county to the mouth of Wilson or New River, so as to interseet with the public road in Virginia, leading to the Seven Mile Ford.

SEC. 2. *Be it further enacted,* That before they shall enter upon their duties as such, they shall take an oath before some justice of the peace that they will lay off said road on the best route they can find and at the lowest possible grade, due regard being had to the public good as well as to private property; and when they have so laid off and marked said road, they shall make a report in writing to the respective county courts of said counties, twelve justices being on the bench, and said courts after having confirmed said

reports, shall appoint overseers and order out a sufficient number of hands to open the same, and when said road shall be opened, it shall be deemed a public road and shall be kept in repair as other roads are in this State.

Damages.

SEC. 3. *Be it further enacted,* That said commissioners shall have power to assess damages to any person through whose lands they may run said road, if in their judgment they shall believe any damage has or will be sustained, which damage shall be paid by the counties where the lands lie.

Appropriation
of money re-
ceived for
vacant lands.

SEC. 4. *Be it further enacted,* That such sums of money as shall hereafter be paid into the public treasury for and during the five years next ensuing the ratification of this, not exceeding one thousand dollars for vacant lands lying in that part of Ashe county east of a line running from a point in the Virginia line due north of the fork of New River, south to the said fork, then up the south fork of New River to the mouth of Prather's Creek, then to Prather's Storehouse, then with the road known as the Mulberry Road to the top of the Blue Ridge, shall be appropriated to the opening and improvement of said road where it crosses the Blue Ridge.

Further appro-
priation.

SEC. 5. *Be it further enacted,* That the sum of five hundred dollars be and the same is hereby appropriated to be paid by the public treasury to the said commissioners from the counties of Surry, Wilkes and Ashe to aid them in grading and making said roads where the same passes the Blue Ridge at the said Roaring Gap.

SEC. 6. *Be it further enacted*, That the said Report. commissioners from Surry, Wilkes and Ashe counties shall report to the public treasurer before the next meeting of the General Assembly how they shall have expended the said five hundred dollars.

SEC. 7. *Be it further enacted*, That this act shall be in force from and after its passage.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

CHAPTER CLVII.

AN ACT APPOINTING COMMISSIONERS TO VIEW AND LAY OFF A PUBLIC ROAD FROM ENOCH VONNOY'S MILL, IN WILKES COUNTY, ACROSS THE BLUE RIDGE, TO CRANBURY CREEK, THENCE TO THE VIRGINIA LINE, AT OR NEAR THE MOUTH OF WILSON.

Names of commissioners.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That William E. Reynolds, William Hall, and Martin H. Wheatly, be, and are hereby appointed commissioners to view and lay off so much of a public road, commencing at Enoch Vonnoy's Mill, in Wilkes county, crossing the Blue Ridge at the Horse Gap, running to Cranbury Creek in Ashe county, and thence to the Virginia line, as shall lie and be within the county of Wilkes.

SEC. 2. *Be it further enacted.* That Joseph B. Parsons, Allen Gentry and John Rives, be, and are hereby appointed commissioners to view and lay off so much of the road described in the 1st section of this act, as shall be within the limits of the county of Ashe.

Report.

SEC. 3. *Be it further enacted,* That it shall be the duty of the commissioners named in the 1st and 2d sections of this act, at as early a time as practicable, to enter upon and discharge the duties assigned them, and make report thereof in writing, to the county courts of their respective counties.

SEC. 4. *Be it further enacted*, That when the Overseers, commissioners aforesaid shall have made reports to the county courts of their respective counties, and the same shall have been confirmed. It shall be the duty of the county courts of the said counties of Wilkes and Ashe, to appoint overseers, and assign to them such a number of hands now liable by law to work on public roads, as may be necessary to complete the said road.

SEC. 5. *Be it further enacted*, That the hands Hands, assigned under this act by the courts, shall be notified by the overseers in the same manner that notices are now required to be given by law to hands liable to work on public roads, and in case of failure on the part of said hands to work, they shall be liable to the same penalties now imposed by law in other cases of failure.

SEC. 6. *Be it further enacted*, That it shall be Compensation, the duty of the county courts of Wilkes and Ashe counties, to allow the commissioners named in this act, such compensation for their services as to them may seem proper.

SEC. 7. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 25th day of December, A. D., 1852.]

SENATORIAL DISTRICTS.

CHAPTER CLVIII.

AN ACT TO LAY OFF THIS STATE INTO FIFTY SENATORIAL DISTRICTS.

Location of
districts.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That for the purpose of electing members to the Senate of the General Assembly of the State of North Carolina, this State shall be divided into fifty districts, as follows, that is to say: The first district shall consist of the counties of Pasquotank and Perquimons, the second district of Camden and Currituck, the third district of Gates and Chowan, the fourth district of Tyrrell and Hyde, the fifth district of Northampton, the sixth district of Hertford, the seventh district of Bertie, the eighth district of Martin and Washington, the ninth district of Halifax, the tenth district of Edgecombe, the eleventh district of Pitt, the twelfth district of Beaufort, the thirteenth district of Craven, the fourteenth district of Carteret and Jones, the fifteenth district of Greene and Lenoir, the sixteenth district of New Hanover, the seventeenth district of Duplin, the eighteenth district of Onslow, the nineteenth district of Bladen, Brunswick and Columbus, the twentieth district of Cumberland, the twenty-first district of Sampson, the twenty-second district of Wayne, the twenty-third district of Johnston, the twenty-fourth district of Wake, the twenty-fifth district of Nash, the twenty-sixth district

of Franklin, the twenty-seventh district of Warren, the twenty-eighth district of Granville, the twenty-ninth district of Person, the thirtieth district of Orange, the thirty-first district of Almance and Randolph, the thirty-second district of Chatham, the thirty-third district of Moore and Montgomery, the thirty-fourth district of Richmond and Robeson, the thirty-fifth district of Anson and Union, the thirty-sixth district of Guilford, the thirty-seventh district of Caswell, the thirty-eighth district of Rockingham, the thirty-ninth district of Mecklenburg, the fortieth district of Stanly and Cabarrus, the forty-first district of Rowan and Davie, the forty-second district of Davidson, the forty-third district of Stokes and Forsyth, the forty-fourth district of Ashe, Surry, Watauga and Yadkin, the forty-fifth district of Wilkes, Iredell and Alexander, the forty-sixth district of Burke, McDowell and Caldwell, the forty-seventh district of Lincoln, Gaston and Catawba, the forty-eighth district of Rutherford and Cleaveland, the forty-ninth district of Buncombe, Henderson, Yancey and Madison, and the fiftieth district of Haywood, Macon, Cherokee and Jackson.

SEC. 2. *Be it further enacted*, That when any senatorial district, as laid off by this act, is composed of more than one county, the sheriff or other returning officer of each of the counties composing such senatorial district, shall, after receiving the returns from the inspectors as now prescribed by law, meet on the second Thursday in August after each election, at the following places in their respective districts, for the purpose of comparing the polls in said districts, to wit: in the first district, composed of the counties of Pasquotank and Perquimons, in the second district, composed of the counties of Camden and Currituck,

Places for comparing polls.

in the third district, composed of the counties of Gates and Chowan, in the thirty-third district, composed of the counties of Moore and Montgomery, in the forty-first district, composed of the counties of Rowan and Davie, in forty-fourth district, composed of the counties of Ashe, Surry, Watauga, and Yadkin, in the forty-ninth district, composed of the counties of Buncombe, Henderson, Yancy, and Madison, in the fiftieth district, composed of the counties of Haywood, ¹Macon, Cherokee, and Jackson, at the several places now provided by law; in the fourth district, composed of the counties of Tyrrell and Hyde, at Charles McClure's, in the county of Tyrrell; in the eighth district, composed of the counties of Martin and Washington, at Jamestown, in the county of Martin; in the fourteenth district, composed of the counties of Carteret and Jones, at J. J. Pelletier's Mills, on Hadnot's Creek, in the county of Carteret; in the fifteenth district, composed of the counties of Green and Lenoir, at Kinston, in the county of Lenoir; in the nineteenth district, composed of the counties of Bladen, Brunswick, and Columbus, at Wayman Academy, in the county of Brunswick; in the thirty-first district, composed of the counties of Alamance and Randolph, at Liberty, in the county of Randolph; in the thirty-fourth district, composed of the counties of Richmond and Robeson, at John Malloy's, in the county of Richmond; in the thirty-fifth district, composed of the counties of Anson and Union, at Lanesborough, in the county of Anson; in the fortieth district, composed of the counties of Cabarrus and Stanley, at Mount Pleasant, in the county of Cabarrus; in the forty-third district, composed of the counties of Stokes and Forsyth, at Germanton, in the county of Stokes; in the forty-seventh district, composed of the

counties of Lincoln, Gaston and Catawba, at Lincolnton, in the county of Lincoln; in the forty-eighth district, composed of the counties of Rutherford and Cleaveland, at Rutherfordton, in the county of Rutherford; in the forty-fifth district, composed of the counties of Wilkes, Iredell and Alexander, at Taylorsville, in the county of Alexander; in the forty-sixth district, composed of the counties of Burke, McDowell and Caldwell, at Morganton, in the county of Burke; and in the several districts, composed of one county, at the Court-houses of their respective counties.

SEC. 3. *Be it further enacted*, That this act shall take effect and be in full force from and after its ratification: *Provided*, That nothing in this act contained shall be so construed as to affect the manner of holding an election for members of the Senate before the next regular election, to be holden on the first Thursday in August, one thousand eight hundred and fifty-four.

Provisions of
this act.

[Read three times and ratified in General Assembly
this 25th day of December, 1852.]

CHAPTER CLIX.

AN ACT TO ALLOW FURTHER TIME FOR SHERIFFS TO MAKE THEIR RETURNS IN PRESIDENTIAL ELECTIONS.

Time allowed
to Sheriff.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the first section of the 41st chapter of the "Revised Statutes," be so amended as to allow the sheriffs of the several counties in this State, twelve days to make return of the votes given in their several counties for electors of president and vice president of the United States, instead of eight days, as by said section required.*

Applicable to
the vote of 1852

SEC. 2. *Be it further enacted, That this act [shall] apply to the vote given in 1852, as well as to presidential elections hereafter to be held in this State.*

SEC. 3. *Be it further enacted, That this act be in force from and after its passage.*

[Read three times and ratified in General Assembly,
this 11th day of November, A. D., 1852.]

CHAPTER CLX.

AN ACT TO AMEND AN ACT PASSED AT THE LAST SESSION OF THE LEGISLATURE, ENTITLED "AN ACT TO INCORPORATE THE 'CAPE FEAR AND DEEP RIVER STEAM BOAT COMPANY.'"

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the corporate name of the "Cape Fear and Deep River Steamboat Company" be, and the same is hereby changed to that of the "Brothers' Steamboat Company." Corporate title changed.

SEC. 2. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly this 23rd day of October, 1852.]

CHAPTER CLXI.

AN ACT CONCERNING THE REPORTS OF THE SUPREME COURT.

Duty of reporter.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That hereafter it shall be the duty of the reporter to the supreme court to furnish the State with the reports of the supreme court for the use of the judges of the supreme and superior courts, and the judge of the United States for the district of North Carolina, one copy for each to be distributed as the copies of the reports are now distributed to the several county courts.

[Read three times and ratified in General Assembly, this 17th day of December, A. D., 1852.]

TAXES.

CHAPTER CLXII.

**AN ACT TO ASCERTAIN THE WHOLE AMOUNT OF
TAXES PAID BY THE PEOPLE OF NORTH CAROLINA.**

SEC. 1. *Be it enacted by the General Assembly* Duty of clerks.
of the State of North Carolina, and it is hereby enacted
by the authority of the same, That the clerks of the
several county courts of this State be and the same
are hereby required to return to the comptroller in
their annual returns, in addition to the abstract of
State taxes, an abstract of the lists of the county and
poor taxes paid in each of their respective counties,
which abstract shall also set forth the number of tax-
able white polls, the number of taxable black polls, the
amount paid on each poll, the amount paid on each
hundred dollars valuation of land, and also the gross
amount of taxes of every kind levied and collected
for county purposes. Any clerk failing to make re-
turn of the abstract herein required, shall forfeit and
pay the sum of one hundred dollars, to be recovered
in the superior court of Wake county, on motion by
the attorney-general; and it shall be the duty of the
comptroller to inform the attorney-general of all such
delinquent clerks; and on the trial of the motion, the
certificate of the comptroller, certifying such failure,
shall be sufficient evidence thereof. The forfeiture
thus recovered shall be paid into the public treasury
of the State, by the clerk of the superior court of

Wake county, and on his failure to do so, he and his sureties shall be liable on his bond in a suit at the instance of the State.

SEC. 2. *Be it further enacted*, That the comptroller shall include the lists herein provided for in his annual reports.

[Read three times and ratified in General Assembly this 17th day of December, A. D., 1852.]

TIMBER.

CHAPTER CLXIII.

AN ACT TO PREVENT THE FELLING AND PUTTING OF
TIMBERS IN HOGAN'S CREEK, IN THE COUNTY OF
ROCKINGHAM.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That hereafter it shall not be lawful to fell or put any timber or timbers, tree or trees or brush in Hogan's Creek, in the county of Rockingham, and that any one who shall violate the provisions of this act, or suffer the same to be done by his or her overseer or servants, shall be liable to indictment in the superior or county courts of the aforesaid county and fined and imprisoned at the discretion of the court, and shall be further liable to an action for damages, brought by any one who may sustain damage by such an act: *Provided,* That the provisions of this act extend only to so much of said stream Proviso. as lies in the county of Rockingham.

SEC. 2. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly
this 25th day of December, A. D., 1852.]

TOLL BRIDGE.

CHAPTER CLXIV.

AN ACT TO AUTHORIZE A. M. POWELL, OF CATAWBA COUNTY, AND OTHERS, TO ERECT A TOLL-BRIDGE ACROSS THE CATAWBA RIVER, AT OR NEAR THE BUFFALOE SHOALS.

Corporate title.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That A. M. Powell, H. F. Shuford, H. T. Canster, D. B. Gaither, J. L. Gaither, Q. A. Shuford, or a majority of them, their successors and assigns, and those who may hereafter associate themselves with them, be, and the same are hereby constituted a body politic and corporate, under the name and style of "Buffaloe Shoals Bridge Company," for the purpose of building a bridge over the Catawba River, between the counties of Iredell and Catawba, at or near the Buffaloe Shoals, and as such may sue and be sued, plead and be impleaded, and have perpetual succession and a common seal, and to have and to hold necessary real and personal estate to the accomplishment of the purposes designed by this act; that whenever the amount of five thousand dollars shall have been subscribed by the corporation aforesaid, or others, the said stockholders or subscribers shall assemble at such time and place as they may deem proper, and organize by electing a president and four directors, and such other officers as may be necessary to said company, and to ordain and pass all necessary by-laws and*

ordinances for the better regulation and management of said corporation: *Provided*, That said bridge shall not obstruct or injure any private or public ford.

SEC. 2. *Be it further enacted*, That the capital stock of said corporation shall not exceed five thousand dollars, and shall be divided into shares of one hundred dollars each, and the shares so subscribed shall be paid for or collected at such times and places and in such instalments as the president and directors from time to time shall prescribe, they having given first twenty days' notice thereof, and if any person or persons holding one or more shares in said company shall fail to pay for the same, in the manner and at the time prescribed, the president and directors, in the name of the company, before any justice of the peace or other court of competent jurisdiction, may enforce the collection thereof by legal process, or they may expose to public sale the share or shares which such defaulting stockholder may hold in said company, by giving ten days' public notice thereof, and if the said share or shares shall not sell for a sufficient sum to pay the instalment due thereon, the sum deficient may be recovered by suit or otherwise, from the person or persons who own said stock; and the books of said company shall be good evidence of such sale, and of the purchase of said shares.

SEC. 3. *Be it further enacted*, That the general meetings of said company shall be held at such times and places as the stockholders may direct, and the president and directors shall have power and authority to acquire by purchase, donation or otherwise, a proper site for said bridge, and to commence work on the same, or to enter into contracts for the whole or any part thereof, when the said capital stock of five thou-

Corporate stock.

General meeting.

sand dollars shall have been subscribed ; and to make all needful rules and regulations for the management of the affairs of said company.

Certificates.

SEC. 4. *Be it further enacted*, (That when) the capital stock shall have been paid for, certificates for the same shall be issued to the several stockholders therefor, and said stock shall be transferable by the holders thereof, in such manner as the president and directors shall prescribe, and the stock shall be deemed and held as personal estate.

Toll-gates, &c.

SEC. 5. *Be it further enacted*, That said company have power and authority to erect and keep up a gate or gates on said bridge, and to ask, demand, take and receive not more than the following tolls, to wit : For any four-wheeled pleasure carriage, seventy-five cents ; every two-wheeled carriage, forty cents ; for every waggon with six horses, eighty cents ; for every waggon with four horses, sixty cents ; every cart or carryall, twenty-five cents ; for man and horse or mule, ten cents ; single horse or mule, six cents ; each head of horned cattle, four cents ; hogs, sheep, two cents each.

Conditions of
charter.

SEC. 6. *Be it further enacted*, That unless said company shall commence the building of said bridge and complete the same within seven years from the passage of this act, the corporate power hereby granted shall cease and determine, and that the corporation hereby enacted shall not continue longer than ninety-nine years, unless the same shall be extended by an act of the General Assembly.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

TURNPIKE ROADS.

CHAPTER CLXV.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO AMEND AN ACT ENTITLED 'AN ACT TO INCORPORATE THE McDOWELL AND YANCY TURNPIKE COMPANY.'" .

SEC. 1. *Be it enacted by the General Assembly* Vacancies. *of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the board of commissioners shall have power, a majority of the commissioners being present, to fill any vacancies that may occur in said board by death, resignation or otherwise.

SEC. 2. *Be it further enacted,* That if the board Lands. of commissioners should fail to secure, by donation, the right of way over the lands through which said road passes, then the county courts of McDowell and Yancy are hereby authorized, upon petition filed by said commissioners, to order a jury to be summoned to view the lands over which said road passes, in their respective counties, and assess the damages which may be sustained by the individuals owners of said lands, and make report thereof to their respective county courts, and said courts, a majority of the acting justices being present, may order the payment of the damages so assessed out of the funds; but, in case said courts refuse to make such order, then the board of commissioners shall pay out of the funds in their hands

for opening said road to the individuals over whose lands said road passes, the amount of damages assessed to them respectively by said jury.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

CHAPTER CLXVI.

**AN ACT TO INCORPORATE THE ROANOKE FERRY AND
TURNPIKE COMPANY.**

SEC. 1. *Be it enacted by the General Assembly* Books to be opened.
of the State of North Carolina, and it is hereby enacted
by the authority of the same, That it shall be law-
ful to open books in the county of Martin, under the
direction of Mason Jones and George W. Ward, of
said county; in the county of Bertie, under the direc-
tion of P. H. Winston and Lorenzo S. Webb, of Bertie
county; and in the county of Washington, under the
direction of John M. C. Bogle and William Bagley, of
Washington county, or any one of them, for the pur-
pose of receiving subscriptions for the establishing a
ferry on and across the Roanoke River, and the con-
struction of a turnpike road to commence at Rhodes'
Ferry Landing, in Bertie county, on the Roanoke
River, and to extend across said river to the south
side of said river in Martin county, and thence as
shall be designated and determined, to some point on
the main public road leading from Plymouth to Wil-
liamston.

SEC. 2. *Be it further enacted,* That the times Advertisement of times and places.
and places of receiving such subscription of stock
shall be advertised at the court-house door in each of
the said counties, and the said commissioners shall
have power to open books from time to time as they
may think proper, until the whole of the capital stock
of the three thousand dollars shall be taken.

Corporate title.

SEC. 3. *Be it further enacted,* That when the sum of one thousand dollars shall be subscribed in the manner described, the subscribers, executors, administrators, and assigns, shall be and they are hereby declared to be an incorporated company by the name and style of the "Roanoke Ferry and Turnpike Company," and by that name may sue and be sued, implead and be impleaded, and have perpetual succession and a common seal, and all other corporate rights which may be necessary for or incidental to the object of said company.

Payments.

SEC. 4. *Be it further enacted,* That upon any subscription for stock as aforesaid, there shall be paid at the time of subscribing, or at such other time as said commissioners shall determine and direct, to the said commissioners, such proportion of the stock as they shall direct, and the remainder shall be paid in such proportion and at such times as shall be required by the by-laws and regulations of the said company.

Election of officers.

SEC. 5. *Be it further enacted,* That when the sum of one thousand dollars shall have been subscribed, as herein provided, public notice of that fact shall be given at the court house doors in said counties, and the stockholders shall meet within sixty days thereafter and elect a president, treasurer and three directors from their own number, who shall direct and control the business of the company for one year from their appointment, or until their successors are appointed.

Capital stock.

SEC. 6. *Be it further enacted,* That the capital stock of the company shall be three thousand dollars, divided into shares of twenty-five dollars each, and at

all general meetings of the stockholders the number of votes to which each shall be entitled shall be determined by the number of shares of said stock he may own, each share of said stock to be entitled to one vote in the general meeting of the stockholders.

SEC. 7. *Be it further enacted,* That the said company shall have power and authority to lay out and construct a turnpike road from the point on the south side of the Roanoke River opposite to Rhode's Ferry Landing to some suitable place on the main road leading from Plymouth to Williamston, and for a compensation for the cost of the construction of said road the said company shall be authorized to demand and receive the following tolls, to wit: For every conveyance, not more than ten cents for each wheel, and for every horse driven in harness, not more than five cents; for every horse and rider, not more than twenty-five cents; for every loose horse or mule not more than ten cents, and, for each head of cattle, hogs or sheep, not more than five cents; and the said company shall be authorized and they are hereby empowered to establish a ferry from the termination of said turnpike road at the Roanoke River across said river to Rhodes' Ferry Landing, and, as a compensation for the expense so incurred, they are authorized to demand and receive the same tolls, and no more, as are herein allowed to be charged for the use of and upon the turnpike road, and the toll collectors on said road and ferry shall be authorized to refuse a passage over said road and across said ferry to any and all persons who shall refuse or fail to pay the prescribed tolls.

Authority to
construct road.

Width of road.

SEC. 8. *Be it further enacted*, That the road shall be sixteen feet in width, clear of obstruction; and the president and directors of said road, as long as they shall continue to collect tolls for passing said road and crossing said ferry, shall be liable to indictment for not keepi g said road and ferry in good order and repair, and they shall be responsible in civil actions for all damages resulting from such neglect.

Lands for construction of road.

SEC. 9. *Be it further enacted*, That the president and directors may agree with the owners of the land over which the said road shall pass for the purchase thereof, and of sufficient timber on the lands adjacent for the construction and repairs of the said road; and in case of disagreement, or if the owners shall be *feme covert*, or under age, or *non compos*, or out of the State, any two justices in the county where the land lies, may, upon application, issue their warrant to the sheriff of said county, commanding him to summon five disinterested freeholders, who shall within twenty days thereafter go upon the land, and after being duly sworn by the justice of the peace to act impartially in the premises, they shall value the land and timber necessary for the construction and repairs of the said road, and also consider the damages to the owner of the land and timber, and their report of valuation of the land and timber shall be signed by the sheriff and by the five commissioners and returned to the clerk of the county court of said county, and shall be duly registered, and such report shall be in all cases conclusive; and upon the payment by the president of said company of the sum so reported, the corporation shall be seized in fee of the land and timber so valued, and the report shall actually describe the land and timber so valued; but no condemnation shall extend to any

dwelling house ; and if the owner of the land and timber shall refuse to receive the amount of the valuation of said land and timber, or if he cannot be found, then the president of the said company shall pay the amount into the county court clerk's office of the said county.

SEC. 10. *Be it further enacted*, That the said road and ferry with the improvements thereon, which shall be made in pursuance of this act, shall from hereafter be taken and considered as a public highway, free for the passage of all persons and animals and carriages of any description on the payment of the tolls imposed by this act. Public Highway.

SEC. 11. *Be it further enacted*, That this act be in force from and after its ratification.

[Read three times and ratified in General Assembly this 27th day of December, A. D., 1852.]

CHAPTER CLXVII.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE RICHMOUNTAIN TURNPIKE COMPANY, IN THE COUNTY OF HAYWOOD," RATIFIED 28TH OF JANUARY 1852.

Authority to
change points
of location.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the second section of the above recited act, be, and the same is hereby so amended as to empower the company therein authorized, to change the points of location, and to locate the road either as designated in said act, or down Pigeon River, as the said company, when formed, may see proper.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

CHAPTER CLXVIII.

**AN ACT TO INCORPORATE THE ROANOKE FERRY AND
TURNPIKE ROAD COMPANY.**

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful to open books in the county of Martin, under the direction of Mason Jones and George W. Ward, of said county; in the county of Bertie, under the direction of P. H. Winston and Lorenzo S. Webb, of Bertie county, and in the county of Washington, under the direction of John M. C. Bogle and William Bayley, of Washington county, or any one of them, for the purpose of receiving subscriptions for the establishment of a Ferry on and across Roanoke River, and the construction of a turnpike road to commence at "Rhodes' Ferry Landing," in Bertie county, on the Roanoke River, and to extend across the said river to the south side of said river, in Martin county, and thence as shall be designated and determined, to some point on the main public road leading from Plymouth to Williamston. Books to be opened.

SEC. 2. *Be it further enacted,* That the time and places of receiving such subscriptions of stock shall [be] advertised at the court house door for each of said counties; and the said commissioners shall have power to open books from time to time as they shall think proper, until the whole of the capital stock of three thousand dollars shall be taken. Advertisement.

Corporate title.

SEC. 3. *Be it further enacted,* That when the sum of one thousand dollars shall be subscribed in the manner described, the subscribers, their executors, administrators or assigns shall be, and they are hereby declared to be an incorporated company, by the name and style of "The Roanoke Ferry and Turnpike Company," and by that name may sue and be sued, implead and be impleaded, and have perpetual succession, and a common seal and all other corporate rights which may be necessary for, or incidental to the objects of said company.

Payments.

SEC. 4. *Be it further enacted,* That upon any subscription for stock as aforesaid, there shall be paid at the time of subscribing or at such other time as said commissioners shall determine and direct, to the said commissioners such a proportion of the stock as they shall direct, and the remainder shall be paid in such proportions and at such times as shall be required by the by-laws and regulations of the said company.

**Election of
Officers.**

SEC. 5. *Be it further enacted,* That when the said sum of one thousand dollars shall have been subscribed, as herein provided, public notice of that fact shall be given at the court house doors in said counties, and the stockholders shall meet within sixty days thereafter and elect a president, treasurer, and three directors from their own number, who shall direct and control the business of the company for one year from their appointment or until their successors are appointed.

Capital stock.

SEC. 6. *Be it further enacted,* That the capital stock of the company shall be three thousand dollars, divided into shares of twenty-five dollars each, and at all general meetings of the stockholders the number

of votes to which each shall be entitled shall be determined by the number of shares of stock he may own, each share of said stock to be entitled to one vote in the general meetings of the stockholders.

SEC. 7. *Be it further enacted*, That the said company shall have power and authority to lay out and construct a turnpike road from the point on the south side of Roanoke River, opposite the "Rhodes' Ferry Landing," to some suitable point on the main road leading from Plymouth to Williamston, and as a compensation for the cost of the construction of said road, the said company shall be authorized to demand and receive the following tolls, to wit: For every conveyance, not more than ten cents for each wheel; and for every horse driven in harness, not less than five cents; for every horse and rider, not more than twenty cents; for every loose horse or mule, not more than ten cents; and on each head of cattle hog or sheep, not more than five cents; and the said company shall be authorized, and they are hereby empowered to establish a ferry from the termination of said turnpike road at the Roanoke River, across said river to Rhodes' Ferry Landing, and as a compensation for the expense so incurred, they are authorized to demand and receive the same tolls, and no more, as are herein allowed to be charged for the use of and upon the turnpike road, and the toll-collectors on said road and ferry, shall be authorized to refuse a passage over said road and across said ferry to any and to all persons who shall refuse or fail to pay the prescribed tolls.

SEC. 8. *Be it further enacted*, That the road shall be sixteen feet in width, clear of obstructions; and the president and directors of said road, as long

as they shall continue to collect tolls for passing along said road and crossing said ferry, shall be liable to indictment for not keeping said road and ferry in good order and repair, and they shall be responsible in civil action for all damages resulting from such neglect.

Lands for location of road.

SEC. 9. *Be it further enacted*, That the president and directors may agree with the owners of the land over which the said road shall pass, for the purchase thereof, and of sufficient timber on the lands adjacent for the construction and repairs of the said road; and in case of disagreement, or if the owner shall be *feme covert*, or under age, or *non compos*, or out of the State, any two justices in the county where the land lies may, upon application, issue their warrant to the sheriff of said county, commanding him to summon five disinterested freeholders, who shall, within twenty [days] thereafter, go upon the land, and after being duly sworn by a justice of the peace to act impartially in the premises, they shall value the land and timber necessary for the construction and repairs of the said road, and also consider the damages to the owner of the land and timber, and their report of valuation of the land and timber shall be signed by the sheriff and the five commissioners, and returned to the clerk of the county [court] of said county, and shall be duly registered, and such report shall be in all cases conclusive; and upon the payment by the president of said company of the sum so reported, the corporation shall be seized in fee of the land and timber so valued, and the report shall actually describe the land and timber so valued; but no such condemnation shall extend to any dwelling house; and if the owner of the land and timber shall refuse to receive the amount of the valuation of said land and timber, or if he cannot

be found, then the president of the said company shall pay the amount into the county court clerk's office of the said county.

SEC. 10. *Be it further enacted*, That the said road and ferry, with the improvements thereon which shall be made in pursuance of this act, shall forever hereafter be taken and considered as a public highway, free for passage of all persons and animals, and carriages of every description, on the payment of the tolls imposed by this act. Public High-
way.

SEC. 11. *Be it further enacted*, That this act be in force from and after its ratification.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

CHAPTER CLXIX.

**AN ACT TO BRING INTO MARKET THE LANDS PLEDGED
FOR THE COMPLETION OF THE WESTERN TURNPIKE
ROAD.**

Office to be
opened.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same.* That an entrytaker's office shall be opened in the county of Cherokee, for the entry of vacant lands in said county, and an entrytaker shall be elected as is required in other counties of this State, and until such election shall be made, the governor shall have the power to appoint some suitable person, resident in said county, to discharge the duties of said office as hereinafter directed.

Rates, &c.

price
SEC. 2. *Be it further enacted,* That from the first day of February, 1853, till the first day of June thereafter any one may enter any of the unsold lands in said county at the rate of fifty cents per acre, and thereafter any land remaining may be entered at the rate of twenty cents per acre for the next three months from the first day of June, and thenceafter all of said unsold lands that may be unentered may be entered at ten cents per acre for twelve months and thereafter at the same rates of other vacant lands in this State.

Terms, &c.

SEC. 3. *Be it further enacted,* That it shall be lawful for all entries of vacant land in said county of Cherokee to file their bonds, with approved security, with the entrytaker, payable to the State in four equal annual instalments, which shall, when paid, be in

full of the purchase money for the tract or tracts so entered, and, upon proof of such payment as herein provided, the secretary of state shall issue the grant or grants according to the entry and survey thereon, and in case the land shall have been surveyed by authority of the State, the grant shall issue according to the survey so made, and not otherwise, and no point of any tract so surveyed shall be granted without the whole.

SEC. 4. *Be it further enacted*, That the Governor of the State shall sign no grants on entry and surveys made under the provisions of this act, unless as much as fifty acres, [and] shall be included in such survey, and unless such survey shall be a square rectangle not more than twice as long as wide. Quantity specified.

SEC. 5. *Be it further enacted*, That all the vacant lands in the county of Macon and Haywood may be entered under the provisions of this act at the present rates, and all the lands in said county heretofore entered and not paid for may be paid for as herein provided for the lands lying in Cherokee county, and all the money and lands that may be received by the entrytaker of either of the said counties of Cherokee, Macon, and Haywood, shall be paid to contractors for making the said Western Turnpike Road, on the certificate of the agent for making said road, until the same is completed. Disposition of money and bonds.

SEC. 6. *Be it further enacted*, That a surveyor shall be elected for the county of Cherokee, under the same rules and regulations, and shall perform all the duties and be under all the penalties, as other county surveyors in this State. Surveyor.

Sale of lands.

SEC. 7. *Be it further enacted,* That all the surveyed lands shall be sold to the highest bidder by the agent for building said road, at prices not less than it is assessed at, on a credit of one, two, three, and four years, on bond and security being given, the sale to be made after the first day of June next, after forty days' public notice.

Overseers.

SEC. 8. *Be it further enacted,* That the agent for superintending the making of said road shall have power to appoint overseers on the portions of said road [that are made,] and see that it is kept in repair, and the overseers appointed shall have the power to call out the laboring hands subject to work on said road, and to direct their labor as other overseers of roads are authorized to do, and they shall be liable to indictment as other overseers of roads for failure or neglect of duty; and the said agent may first make any part or portions of said road or bridges first, that he may find requiring it more than other portions; and all the tolls and money received on account of said road shall, by said agent, be faithfully applied to the making of said road until it is completed; and said agent shall hereafter receive for his services three dollars per day, and shall have full power to erect toll-gates on said road, and appoint keepers of such gates, subject to be removed by the board of internal improvement.

Penalty of
avoiding or
refusing pay-
ment of toll.

SEC. 9. *Be it further enacted,* That any one who shall break through or go around any of said gates to avoid the payment of the tolls, shall forfeit and pay the sum of ten dollars, to be recovered in the name of

the State, before any justice of the peace for the county where such suit may be brought and applied to the improvement of said road.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

[The two following blank sections were found attached to the foregoing act, but not included within the ratification :]

SEC. *Be it further enacted*, That the occupant of every tract of said vacant land shall have a preference in entering such tract or tracts, and such prior claims or right shall extend for the first three months after the entry office is opened, at the rate of twenty cents per acre, until the price, according to this bill, is reduced below that sum, and shall thereafter have the exclusive right for two months at the reduced rate, and that any one having an improvement worth ten dollars on any of said land on which he or she does not reside shall have the like pre-emption.

SEC. *Be it further enacted*, That it shall be the duty of the agent for collecting Cherokee bonds to refund to the public treasury the money paid for the survey of the Western Turnpike Road, as well as the amount that may be paid for the survey of the railroad route under the act for that purpose, out of the first money collected by him on Cherokee bonds, and it shall be the duty of the agent to retain the bonds and collect the sums required for that purpose.

TREASURY.

CHAPTER CLXX.

AN ACT TO REFUND TO THE TREASURY CERTAIN MONEYS, AND FOR OTHER PURPOSES.

Sum to be refunded.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the agent for the collection of the Cherokee bonds be and he is hereby authorized and required to pay to the public treasurer, out of the first moneys which shall hereafter come into his hands arising from any bonds, judgments or other effects, the sum of eleven thousand four hundred and fifty seven dollars and thirty-two cents, (\$11,457 32,) with interest thereon from the 20th of November, 1850, the amount of money which was expended in the survey of the Salisbury and Western Turnpike Road, and the public treasurer is hereby authorized to return said moneys to the public treasury.*

Duty of agents to collect by suit or otherwise.

SEC. 2. *Be it further enacted, That it shall be the duty of agent to collect the amount, by suit or otherwise, out of the said bonds and pay the same over according to the provisions of this act.*

[Read three times and ratified in General Assembly, this 27th day of Decembe , A. D., 1852.]

WARDENS OF THE POOR.

CHAPTER CLXXI.

AN ACT TO AUTHORIZE THE SEVERAL COURTS OF PLEAS AND QUARTER SESSIONS TO PAY THE WARDENS OF THE POOR.

SEC. 1. *Be it enacted by the General Assembly of Compensation. the State of North Carolina, and it is hereby enacted by the authority of the same,* That hereafter the several courts of pleas and quarter sessions of the counties of Anson, Nash and Onslow, may order that the wardens of the poor of their respective counties shall be paid for the services rendered for the county in the capacity of wardens, each warden first making it appear to the satisfaction of the court, by the oath of such warden, the character and extent of the services rendered, and for which he claims compensation, and such payment shall be made by the clerk of the wardens of the poor, out of any county funds in his hands not otherwise appropriated.

SEC. 2. *Be it further enacted,* That this act be in force after its ratification.

[Read three times and ratified in General Assembly this 27th day of December, A. D., 1852.]

WILLS AND TESTAMENTS.

CHAPTER CLXXII.

AN ACT IN RELATION TO WILLS AND TESTAMENTS.

Copies filed in
the office of
Secretary of
State legal
evidence.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That copies of wills filed in the office of the secretary of state or the records thereof, attested by the secretary, shall and may be given in evidence in any court of record in this State, and shall be taken as sufficient testimony for the devise of real estate, and declared good and effectual to pass the estate therein devised, in as full and ample manner as if such will had been duly proven and recorded in the county court.

SEC. 2. *Be it further enacted,* That this act shall be in full force and operation from and after its ratification.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

WITNESSES.

CHAPTER CLXXIII.

**AN ACT TO REGULATE THE PAY OF WITNESSES IN
THE COUNTY OF BRUNSWICK.**

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That each and every person who, having been lawfully summoned, shall attend any of the superior courts of law, or courts of pleas and quarter sessions of the county of Brunswick, shall be allowed, for each and every day's attendance, the sum of one dollar, any law to the contrary notwithstanding. Compensation
of witnesses.

SEC. 2. *Be it further enacted,* That this act shall be in force from and after the first day of February next.

[Read three times and ratified in General Assembly
this 27th day of December, A. D., 1852.]

CHAPTER 17

THE HISTORY OF THE
CITY OF NEW YORK

1790-1800

THE HISTORY OF THE
CITY OF NEW YORK

THE HISTORY OF THE
CITY OF NEW YORK

THE HISTORY OF THE
CITY OF NEW YORK

THE HISTORY OF THE
CITY OF NEW YORK

THE HISTORY OF THE
CITY OF NEW YORK

RESOLUTIONS
OF A PUBLIC NATURE,
PASSED BY THE
LEGISLATURE OF NORTH CAROLINA,
AT ITS
SESSION OF 1852.

RESOLUTIONS.

**RESOLUTION TO FURNISH THE LIBRARY OF CONGRESS
WITH CERTAIN VOLUMES OF THE ACTS OF THE
GENERAL ASSEMBLY OF THIS STATE.**

Resolved by the General Assembly of the State of Donation to
Congress.
North Carolina, That the State librarian be directed
to forward to John S. Meehan, librarian of Congress,
a copy of the Acts of the General Assembly of this
State, passed at the sessions respectively of 1833-4,
1836-7, 1838-9, 1840-1, 1844-5, 1846-7, 1848-9,
1850-1, and of each session of the General Assembly
hereafter.

[Read three times and ratified in General Assembly,
this 21st day of December, A. D., 1852.]

**RESOLUTION AS TO THE BAR AT THE MOUTH OF
CAPE FEAR RIVER.**

WHEREAS, there was formerly a supply of water
on the bar, at the mouth of Cape Fear River, of a
depth sufficient to float the largest size merchant ships,

and whereas, owing in some measure to the action of the General Government in building jetties for the protection of its public works situated adjacent thereto, the channel has been so filled up and navigation so obstructed, that the commercial interests of every section of the State dependent on that outlet are likely to suffer serious injury ; and whereas, by an actual survey made by a board of engineers, skillful and competent, it has been ascertained that a permanent channel of the depth of twenty feet can be obtained—Therefore,

Resolved, That our senators and representatives in Congress are hereby earnestly requested to use all means to procure a sufficient appropriation for deepening the said channel and otherwise improving the same in such manner as may be most expedient.

Resolved further, That the governor be requested to transmit a copy of these resolutions to our senators and representatives, with a request that they will lay them before their respective Houses.

[Read three times and ratified in General Assembly, this 25th day of December, A. D., 1852.]

RESOLUTION CONCERNING THE REPORT OF PROFESSOR EMMONS.

Resolved by the General Assembly of the State of Distribution of report.
North Carolina, That the report of Professor Emmons be distributed among the members of the present General Assembly, giving an equal number to each member, and that a sufficient additional number be printed to give each member thirty copies.

[Read three times and ratified in General Assembly, this 10th day of December, A. D., 1852.]

RESOLUTION CONCERNING THE ENROLLING OF PRIVATE BILLS.

Resolved by the General Assembly of the State of Engrossed bills
North Carolina, That all engrossed private bills written in a fair, legible hand, passed by either house of this General Assembly, without amendment and free from interlineation, and which have not been already enrolled, shall be received as enrolled acts and ratified accordingly.

[Read three times and ratified in General Assembly, this 22d day of December, A. D., 1852.]

**RESOLUTION FOR FURNISHING THE MEMBERS OF THE
GENERAL ASSEMBLY WITH COPIES OF PROF. EM-
MONS' REPORT.**

Public printer
to forward the
report.

Resolved by the General Assembly of the State of North Carolina, That the public printer forward to each member of the General Assembly, by mail, one copy of the report of Professor Emmons, the postage thereon to be paid by the public treasurer, out of any moneys not otherwise appropriated, and that the remaining copies be distributed with the journals and acts to the members of the Assembly, as heretofore ordered.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

RESOLUTIONS FOR FURNISHING THE TWO HOUSES.

The committee appointed to examine the internal arrangement of this hall and recommend such alterations and improvements as may be necessary for the health and comfort of the members of this house, ask leave to

REPORT,

Report.

That they have discharged that duty, and think

the following improvements highly necessary for the health and comfort of the members of this house.

1. That the floor of this hall and the steps and floor of the speakers' and clerks' desk be carpeted with good and substantial carpeting, not to be more than one dollar and fifty cents per yard. Carpeting.

2. That a sufficient number of spittoons and settees be placed in the hall and lobbies. Spittoons.

3. That the senate chamber be provided in like manner as the hall of this house.

The committee therefore submit the following resolutions for the consideration of this house.

1. *Resolved by the General Assembly of the State of North Carolina*, That James F. Taylor, public librarian be, and he is hereby authorized to carry into effect as soon as practicable the recommendations contained in the foregoing report, by having such alterations and improvements made, and by purchasing such articles as are therein specified. Public librarian to carry into effect above report.

2. *Resolved*, That for making such alterations and improvements in the house of commons, the sum of one thousand dollars, or such sum as may be necessary to accomplish the object of this report, not exceeding the limits therein specified, be, and the same is hereby appropriated. Appropriation.

3. *Resolved*, That a similar appropriation be made for the senate chamber, out of any moneys in the treasury not otherwise appropriated. Further appropriation.

[Read three times and ratified in General Assembly, this 29th day of October, A. D., 1852.]

LAWS OF NORTH CAROLINA,

RESOLUTION TO FURNISH THE GOVERNOR'S RESIDENCE.

Appropriation.

Resolved, That one thousand dollars be and is hereby appropriated out of any moneys in the treasury for purpose of repairing and furnishing the residence of the governor of North Carolina, and the governor of the State is hereby authorized to draw upon the treasury for the said sum of money.

[Read three times and ratified in General Assembly,
the 23d December, A. D., 1852.]

RESOLUTION IN FAVOR OF JOSEPH R. ANDERSON, OF RICHMOND, VIRGINIA.

Appropriation.

Resolved by the General Assembly of the State of North Carolina, That the public treasurer be authorized and directed to pay J. R. Anderson, of Richmond, twelve thousand seven hundred eleven dollars, seventy-five cents, with interest thereon at the rate of six per cent. from the first day of May, 1851, until the date when payment is made.

[Read three times and ratified in General Assembly,
this 25th day of December, A. D., 1852.]

**RESOLUTION IN FAVOR OF BINUM W. BELL, OF MA-
CON COUNTY.**

Resolved by the General Assembly of the State of Authority to
issue a grant.
North Carolina, That the secretary of state upon satisfactory proof being made, that a tract of land, situated in the county of Macon, in District No. 11, Section No. 27, containing $56\frac{1}{4}$ acres, has been paid for in full, to issue a grant to Binum W. Bell, the assignee of the original purchaser for said tract of land.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

**RESOLUTION IN FAVOR OF JESSE COLE, OF CHEROKEE
COUNTY.**

Resolved by the General Assembly of the State of Authority to
issue a grant.
North Carolina, That the secretary of State be and he is hereby authorized to issue a grant to Jesse Cole, of Cherokee county, for lot of land known as lot No. 42, in district No. 4, so soon as the certificate of occupancy shall be presented.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

RESOLUTION IN FAVOR OF JAMES FISHER, OF MACON COUNTY.

Authority to
issue a grant.

Resolved by the General Assembly of the State of North Carolina, That a grant issue to James Fisher, of Macon county, for one hundred acres of land in said county, as entered and surveyed for him under warrant No. 5444, by Wm. Tatham, entry taker; it appearing that the agent's receipt for the purchase money has been lost.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

RESOLUTION IN FAVOR OF ABOLISHING DUTIES ON RAILROAD IRON.

Request.

Resolved by the General Assembly of the State of North Carolina, That our Senators and Representatives in Congress be requested to use their influence in favor of abolishing the duties on Rail Road Iron.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

RESOLUTION IN FAVOR OF H. P. KING.

Resolved by the General Assembly of the State of Authority to issue a grant.
North Carolina, That the secretary of state be required, and is hereby authorized to issue a grant to H. P. King, of Cherokee county, for lot of land known as Lot No. 37, and District No. 7, as soon as he shall produce a receipt in full of the purchase money for said lot of land from the agent of the State entrusted with the sale of Cherokee lands.

[Read three times and ratified in General Assembly,
 this 27th day of December, A. D., 1852.]

RESOLUTION CONCERNING MADISON COUNTY.

Resolved by the General Assembly of the State of Weights and measures granted.
North Carolina, That the governor be required to furnish to the county of Madison a set of weights and measures, and that the treasurer pay for the same out of any moneys in the treasury not otherwise appropriated.

[Read three times and ratified in General Assembly,
 this 27th day of December, A. D., 1852.]

RESOLUTION IN FAVOR OF S. MAITLAND, &c.

Appropriation. 1. *Resolved by the General Assembly of the State of North Carolina,* That the public treasurer pay, to Samuel Maitland the sum of fifty dollars for storage of the public arms for the last four years.

Public arms. 2. *Resolved,* That the adjutant general have forthwith all the public arms now on deposit at Plymouth with Samuel Kissam or any other person at that place transported to Raleigh, and see that they are put in good order and ready for service.

[Read three times and ratified in General Assembly, this 27th day of December, A. D. 1852.]

RESOLUTION IN RELATION TO A MARINE HOSPITAL AT OR NEAR SMITHVILLE OR WILMINGTON.

Request. *Resolved by the General Assembly of the State of North Carolina,* That our senators and representatives in the Congress of the United States be requested to use their exertions to procure an appropriation by Congress for the erection of a Marine Hospital at or near Smithville or Wilmington, in this State,

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

RESOLUTION CONCERNING THE NORTH CAROLINA RAILROAD.

Resolved by the General Assembly of the State of Appropriation.
North Carolina, That the public treasurer pay to the North Carolina Railroad Company one hundred thousand dollars towards the first instalment due from the State for stock subscribed in said company, and that he replace that amount in the public treasury out of the proceeds of the first sale of the bonds of the State sold to raise the State's subscription to said company.

[Read three times and ratified in General Assembly,
the 17th day of December, A. D., 1852.]

RESOLUTION FOR PURCHASING OUTLINE MAPS.

Resolved by the General Assembly of the State of Authority to
North Carolina, That the clerk of this house procure purchase.
one copy of the outline map by Wm. D. Cooke, of this city, for each member of this General Assembly, provided the cost does not exceed fifty cents each, and that the public treasurer be allowed the same in his public accounts.

[Read three times and ratified in General Assembly,
this 18th day of December, A. D., 1852.]

A RESOLUTION CONCERNING PUBLIC ARMS.

Removal re-
quired.

Resolved by the General Assembly of the State of North Carolina, That the adjutant General be authorized and required to have the public arms now in the town of Plymouth and other places removed to some one of the arsenals in this State, and that he draw from the treasury the sum necessary to pay for the same.

[Read three times and ratified in General Assembly, this 27th day of December, A. D. 1852.]

R RESOLUTION CONCERNING THE PUBLIC LIBRARY.

Catalogue.

Resolved by the General Assembly of the State of North Carolina, That the State librarian prepare and have printed a catalogue of all the books in the State library, and shall report to each succeeding legislature any increase or diminution of said catalogue, and that he shall procure and preserve in the library two of the principal newspapers in the State.

[Read three times and ratified in General Assembly, this 27th day of December, A. D. 1852.]

RESOLUTION ALLOWING SAMUEL PEARCE AND OTHERS THE USE OF THE PUBLIC LIBRARY.

WHEREAS, This General Assembly have been in- Preamble.
formed that the Rev. Samuel Pearce, Calvin H. Wiley
and William D. Cooke, Esquires, have undertaken to
prepare and publish an accurate map of the State of
North Carolina from careful surveys and other public
documents; and whereas this legislature cordially ap-
prove of this laudable undertaking, Therefore,

Resolved by the General Assembly of the State of Use of public
library granted.
North Carolina, That the said Samuel Pearce, Calvin H.
Wiley and William D. Cooke be allowed the free use
of all such books, maps, charts and documents belong-
ing to the public library, as they may find useful in the
execution of said work: *Provided,* That neither of
said publishers shall be allowed to carry said books,
maps, charts or documents from the city of Raleigh.

[Read three times and ratified in General Assembly
this 27th day of December, A. D., 1852.]

RESOLUTION CONCERNING THE PUBLIC TREASURY.

Authority to
borrow money.

Resolved by the General Assembly of the State of North Carolina, That the public treasurer be, and he is hereby authorized to borrow such sum or sums of money, not to exceed two hundred thousand dollars, as may be necessary to meet the proper liabilities of the State, until the meeting of the next General Assembly : *Provided,* That the sum so borrowed shall be repaid by the public treasurer as soon as the condition of the treasury will enable him to do so.

[Read three times and ratified in General Assembly this 22d day of December, A. D., 1852.]

RESOLUTION AUTHORIZING HIS EXCELLENCY THE GOVERNOR TO APPOINT AN AGENT TO MAKE A SETTLEMENT WITH THE PRESENT RALEIGH AND GASTON RAILROAD COMPANY AND WILLIAM R. ANDERSON.

Agents

Resolved by the General Assembly of the State of North Carolina, That his excellency the governor be and he is hereby authorized to appoint an agent to make settlement with the present Raleigh and Gaston

Railroad Company respecting the use of the iron purchased of Joseph R. Anderson.

[Read three times and ratified in General Assembly, the 27th day of December, A. D., 1852.]

RESOLUTION IN RELATION TO THE SELLING OF RAILROAD IRON, &c.

Resolved by the General Assembly of the State of North Carolina, That the late commissioners of the Raleigh and Gaston Railroad be instructed to sell the railroad iron purchased of Joseph Anderson, of Richmond, and to deposit the proceeds thereof in the public treasury, and that they be furthermore directed to collect the debts reported to be due on account of the said railroad, and to deposit the same in the public treasury. ^{Authority to sell.}

[Read three times and ratified in General Assembly, the 27th day of December, A. D., 1852.]

RESOLUTIONS CONCERNING A ROAD THROUGH PUNGO SWAMP.

Preamble.

WHEREAS, at the session of 1850-51 of the General Assembly of the State, resolutions were passed authorizing the president and directors of the literary fund to construct a road from the town of Plymouth, in Washington county, to the Pungo lands, in the counties of Hyde and Beaufort; and whereas, the amount of money expended on said road was insufficient to complete it the entire length; and whereas, it would add vastly to the value of said lands by the continuation and completion of said road, as the lands are almost wholly inaccessible without said road, only three miles of which yet remains to be constructed; therefore,

Appropriation.

1. *Resolved by the General Assembly of the State of North Carolina*, That the president and directors of the literary fund be and they are hereby instructed to complete the construction of said road, and that a sum of money not exceeding six thousand dollars be and the same is hereby appropriated for that purpose out of the moneys belonging to the literary fund, and that a less sum be used if it be found necessary for that purpose.

Rules.

2. *Resolved, further*, That the same rules and requirements be adopted by the president and directors of the literary fund, in the completion of said road, as have heretofore governed them in its construction, by causing the contractors to enter into

bond and sufficient security for the faithful performance of the work.

3. *Resolved*, That the president and directors of Advertisement. the literary fund cause to be advertised in such newspapers as they may deem proper, the letting out of said road.

[Read three times and ratified in General Assembly this 27th day of December, 1852.]

RESOLUTION REQUIRING THE SECRETARY OF STATE TO PROCURE THE NAMES OF THE SEVERAL ACTING JUSTICES OF THE PEACE IN THIS STATE AND REPORT TO THE GENERAL ASSEMBLY.

Resolved by the General Assembly of the State of North Carolina, That the secretary of state be requested to write to the clerks of the county courts of the several counties in this State, and procure from them respectively a certified list of the names of the several justices of the peace residing in their respective counties and actually serving the public in the capacity of a justice of the peace, and that he report the result of the information obtained to the General Assembly at the earliest day practicable.

Secretary requested to write to clerks.

[Read three times and ratified in General Assembly, this 20th day of November, A. D., 1852.]

RESOLUTIONS ON THE RESIGNATION OF CHIEF-JUSTICE RUFFIN.

Regret.

1. *Resolved, unanimously, by the General Assembly of the State of North Carolina,* That the General Assembly receives reluctantly and with deep regret the announcement that Thomas Ruffin has resigned his office of Chief-Justice of the supreme court of this State.

2. *Resolved, unanimously,* That the pre-eminent ability, profound learning, and unspotted integrity which mark his long career as a magistrate, command the warmest acknowledgements of this General Assembly, the gratitude of the people at large, and will ever be the ornament and pride of administrative justice in North Carolina.

Proceedings
to be transmit-
ted.

3. *Resolved,* That the proceedings of the General Assembly upon this resignation be signed by the speakers of both houses and transmitted to Chief-Justice Ruffin.

[Read three times and ratified in General Assembly, this 29th day of November, A. D. 1852.]

RESOLUTION PROVIDING FOR FURNISHING A SET OF STANDARD WEIGHTS TO THE COUNTY OF ALEXANDER.

Resolved by the General Assembly of the State of North Carolina, That his excellency the governor be requested to furnish to the county of Alexander a set of standard weights, and that the expense of the same, be defrayed out of any moneys in the treasury not otherwise appropriated. Weights and measures.

[Read three times and ratified in General Assembly this 27th day of December, A. D., 1852.]

RESOLUTION REQUIRING THE GOVERNOR TO FURNISH WEIGHTS AND MEASURES FOR THE COUNTY OF JACKSON.

Resolved by the General Assembly of the State of North Carolina, That the governor furnish the county of Jackson with the usual weights and measures furnished the other counties, and that the public treasurer pay the expense of the same. Weights and measures.

[Read three times and ratified in General Assembly this 27th day of December, A. D., 1852.]

RESOLUTION AUTHORIZING THE GOVERNOR TO FURNISH THE CLERK OF THE COUNTY COURT OF UNION COUNTY WITH THE STANDARD OF WEIGHTS AND MEASURES.

Weights and
measures.

Resolved by the General Assembly of the State of North Carolina, That his excellency the governor be authorized and requested to furnish the clerk of the county court of Union, the standard of weights and measures, heretofore furnished to other counties in this State, and that the cost of the same, together with amount of transportation, be paid for out of any moneys in the treasury not otherwise appropriated.

[Read three times and ratified in General Assembly
this 27th day of December, A. D., 1852.]

RESOLUTION AUTHORIZING THE GOVERNOR TO PURCHASE FIFTY COPIES OF WHEELER'S HISTORY.

Resolved by the General Assembly of the State of Authority to
North Carolina, That his excellency the governor be purchase.
and he is hereby authorized and empowered to purchase from Samuel Pearce, agent for the sale of Wheeler's History of North Carolina, fifty copies of said work, at the subscription price of the same, one copy of which shall be deposited in each of the executive offices at Raleigh, and the remaining copies to be deposited in the State Library, and that he be allowed to draw on the treasurer of the State for such sum of money as may be necessary for the purchase of the same.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

OFFICE OF SECRETARY OF STATE, }
MARCH 14th, 1853. }

I, WILLIAM HILL, Secretary of the State, in and for the State of North Carolina, do hereby certify that the Acts and Resolutions contained in this pamphlet, are true copies of the original Acts and Resolutions, passed by the General Assembly of this State, at its late sessions.

WILLIAM HILL, *Secretary of State.*

PRIVATE ACTS

OF THE

PRIVATE ACTS
OF THE
LEGISLATURE OF NORTH CAROLINA,
PASSED AT ITS
SESSION OF 1852.

PRIVATE ACTS.

CHAPTER CLXXIV.

AN ACT TO INCORPORATE THE LADIES' BENEVOLENT SOCIETY IN THE TOWN OF WILMINGTON.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That Catherine Taylor, Catherine Meares, C. G. Kennedy, Missonri Dawson, Mary Anderson, Eliza Hall, Ann Kidder, Evelina Van Bokkelin, Eliza Walker, Julia Oakley, S. E. London, Alice Dickinson, Margaret Dickson, Mary Ashe Moore, Louisa Nutt, Mary E. Walters, Caroline Green, Eliza A. DeRossett, Margaret Lillington, Catherine C. Drane, Mary S. Thomas and Sarah Repiton, and their successors, be and they are hereby constituted a body politic and corporate by the name of the "Ladies' Benevolent Society," and by that name shall have perpetual succession and a common seal, may sue and be sued, acquire and transfer property and pass all such by-laws and regulations for their own government as shall not be inconsistent with the constitution and laws of this State and the United States.

SEC. 2. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly
this 17th day of December, A. D., 1852.]

CHAPTER CLXXV.

AN ACT TO INCORPORATE THE PROPRIETORS OF THE WILMINGTON CEMETERY.

WHEREAS, public sentiment in the town of Wilmington, in accordance with the enlightened experience of populous cities and towns elsewhere, is opposed to the interment of the dead amid the abodes of the living, not only for sanitary but for other obvious reasons; and whereas, experience hath also shown that it is desirable to have public burial grounds, subject to such laws, rules, and regulations as will insure to the living the continued protection of the remains of their dead, and the decent preservation of the grounds, by securing them in perpetuity to the object of their dedication; and whereas, several citizens of Wilmington are desirous to purchase a tract of land for the purpose of establishing thereon a public cemetery, and for the reasons above stated, wish an act of incorporation, and the object being deemed worthy of encouragement; therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Armand J. DeRosset, Jr., Edward Kidder, Platt K. Dickinson, William A. Wright, Oscar G. Parsley, Dugald McMillan, John A. Taylor, John L. Meares, Charles D. Ellis, Henry Nutt, Stephen D. Wallace, John McRae, James Cassidey, Stephen B. Polly, and George R. Franch, and their successors, be and they are hereby created a body politic and corporate by the name and title of the*

"Proprietors of the Wilmington Cemetery," and by that name shall have perpetual succession, and shall be able and liable to sue and be sued in any court of law or equity, may have and use a common seal, shall have power to purchase and hold not exceeding one hundred acres of land, with authority to said corporation to take gifts, devises, and bequests for the purpose of improving and ornamenting said cemetery, and to purchase and hold such personal property as may be requisite to carry into full effect the objects of this act.

SEC. 2. *And be it further enacted,* That the affairs of the said corporation shall be managed by a president and six directors, who shall be annually elected by the proprietors of the stock of said corporation, on the second Monday in January in each and every year; and in all elections held under this act, each proprietor shall be entitled to one vote for each share of stock held by him or her. The said president and directors shall have power to fill all vacancies in their own body, and shall have power to lay out and ornament the grounds, to lay out and sell, and dispose of burial lots, to appoint all necessary officers and agents, and fix their several duties and compensation, and to make such by-laws, rules, and regulations as they may deem proper for the government of lot-holders and visitors to the cemetery, and for the transfer of the stock of the company.

SEC. 3. *And be it further enacted,* That the capital stock of said company shall be represented by one thousand shares of twenty-five dollars each, divided among the proprietors according to their respective interests, and transferable in such manner as the by-laws may direct.

SEC. 4. *Be it further enacted*, That no streets, lanes, alleys, roads or canals of any sort shall be opened through the lands of said corporation, exclusively used or appropriated to the purposes of a cemetery, unless assented to by the president and directors of said company: *Provided, however*, That nothing herein contained shall authorize said corporation to obstruct any public road or street or lane or alley now actually opened and used as such.

SEC. 5. *Be it further enacted*, That any person who shall wilfully destroy, mutilate, deface, injure or remove any tomb, monument, gravestone or other structure placed in said cemetery, or any fence, railing or work for the protection or ornament of said cemetery, or any tomb, monument, gravestones or other structure thereon, or shall wilfully destroy, cut, break, or remove any tree, shrub or plant within the limits of said cemetery, or shall shoot or discharge any firearms within the limits of said cemetery, shall be considered guilty of a misdemeanor, and on conviction thereof before any justice of the peace for the county of New Hanover, shall be punished by fine at the discretion of the justice according to the aggravation of the offence, of not less than five nor more than one hundred dollars, to be recovered in the name of said company by warrant for the use of said company.

SEC. 6. *Be it further enacted*, That burial lots in said cemetery shall not be subject to sale under execution for the debts of the lot holders thereof, and the land of the company dedicated to the purposes of a cemetery shall not be subject to taxation of any kind.

SEC. 7. *Be it further enacted,* That a certificate under the seal of the said corporation, of the ownership of any burial lot in the grounds of said company shall have the same force and effect as any conveyance from said corporation of said lot would have if executed and recorded as conveyances of real estate are required to be.

SEC. 8. *Be it further enacted,* That it shall be lawful for the said company from time to time to set apart, out of the proceeds of the sales of lots and burial fees, such sums as the president and directors may deem judicious, and invest the same in some safe and productive fund, and from time to time reinvest such sums, and the interest accruing on the same, until the gross sum so invested shall form a principal sum of thirty thousand dollars, and the interest thereafter accruing on such principal sum shall be devoted exclusively to the maintainance of said cemetery in good order.

SEC. 9. *Be it further enacted,* That until an election shall be held under the provisions of this act the persons hereinbefore named shall elect from among themselves a president and six directors of the said corporation; and in case of failure hereafter to make an election of president and directors at the times designated by the previous provisions of this act, the president and directors last elected shall continue in office until an election shall be held in accordance with the provisions of such by-laws on the subject of such elections as may be made under the said previous provisions of this act.

SEC. 10. *Be it further enacted*, That so soon as the proceeds from the sales of lots for purposes of sepulture and from burial fees shall have been sufficient to pay the purchase money for the land held by this company, with the interest thereon, together with all such expenses as may have been incurred in buying out, enclosing and improving the grounds, the then stockholders shall transfer their entire interest in the grounds used as a cemetery to the holders of burial lots therein, each lot holder to be entitled to as many shares as he or she has lots, and thenceforth such lot-holders shall be the stockholders exclusively of said corporation.

SEC. 11. *Be it further enacted*, That this act shall be in force from and after the ratification thereof.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

COLLEGES, &c.

CHAPTER CLXXVI.

AN ACT TO INCORPORATE CATAWBA COLLEGE.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That Joshua Clapp, Philip Hederick, George Bernhardt, Levi Correll, Josiah Ransone, Sen'r., John Coulter, Jacob Rawsour, M. W. G. P. Shuford, F. D. Reinhardt, Joseph A. Reinhardt, E. R. Shuford, Jonas Bost, Q. A. Shuford, John Wilfong, T. W. Bradburn, George Setzer, M. L. McCorkle and J. H. Crawford, and their successors be, and they are hereby created a corporation and body politic, to be known and distinguished by the name and style of "The Trustees of Catawba College," and by that name shall have a common seal, and be capable to sue and be sued, to plead and be impleaded, in law or equity, and of taking by purchase, devise or donation, real and personal estate, and of holding and conveying the same, and shall have all the powers and privileges, and be subject to all the liabilities contained in chapter 26th, Revised Statutes.

SEC. 2. *Be it further enacted,* That the trustees above named shall allot themselves into three classes; the place of those of the first class to be vacated at the expiration of the first year; of the second class at the expiration of the second year; and of the third class at the expiration of the third year, reckoning from the

first day of April, 1852, so that one third of their number may be chosen every year, such choice to be made by the North Carolina classes of the German Reformed Church.

SEC. 3. *Be it further enacted*, That said trustees and their successors, or two-thirds of their number, shall have the power of appointing a president and such professors and tutors as to them shall appear necessary and proper for said college; whom they may at any time remove for misbehaviour, inability or neglect of duty, and a majority of them may from time to time, make such by-laws and rules for their own government and that of the college, and for the preservation of order and good morals therein, as to them may appear expedient.

SEC. 4. *Be it further enacted*, That the faculty of said college, consisting of the president, professors and tutors, in convention with the trustees, shall have the power of conferring such degrees or marks of literary distinction as are usually conferred in colleges and seminaries of learning.

SEC. 5. *Be it further enacted*, That this act shall take effect and be in force from and after the ratification thereof.

[Read three times and ratified in General Assembly this 17th day of December, A. D., 1852.]

CHAPTER CLXXVII.

AN ACT TO AMEND THE CHARTER OF DAVIDSON COLLEGE.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That section sixth of the act passed at the General Assembly of the State of North Carolina at the session of 1838-'39, incorporating Davidson College, be repealed: *And be it further enacted, That* the trustees of said college shall be authorized and empowered, whenever necessary and expedient, to appoint a president of said college and such professors and tutors or other officers to them may appear necessary and proper.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

CHAPTER CLXXVIII.

**AN ACT TO INCORPORATE THE TRUSTEES OF THE
HILLSBORO' ACADEMY.**

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That William A. Graham, Cadwallader Jones, Jr., Peter B. Ruffin, John W. Norwood, William F. Strayhorn, Josiah Turner, Jr., John W. Kirkland, Osmond F. Long, and Henry K. Nash, be and they are hereby ordained and constituted a body corporate forever, to be known by the name of "The Trustees of the Hillsboro' Academy," and by that name shall have perpetual succession, and they and their successors, or a majority of them, by the name aforesaid, shall be able and capable in law to sue and be sued, plead and be impleaded, and shall take, demand, and receive any property, real or personal, any moneys or other things which shall be given for the use of said academy, and the same to apply accordingly; and by gift, purchase, or devise, to take, have and possess, receive, enjoy and retain to them and their successors forever, any lands, rents, or tenements, of whatever nature or kind soever, to be applied for the benefit of said academy.*

SEC. 2. *Pe it further enacted, That the said trustees, or a majority of them, shall have power to appoint such teachers as to them shall appear necessary; also a treasurer and secretary, upon such conditions and with such restrictions as they may deem proper; and the said trustees, or a majority of them,*

shall have power to make all such laws and regulations for the government of said academy, and for the preservation of order and good morals therein, as they may deem necessary.

SEC. 3. *Be it further enacted*, That upon the death, removal, inability, or refusal to act, or resignation of any of the trustees, it shall be lawful for the remaining trustees, or a majority of them, to elect other trustee or trustees in the room of such as die, resign, remove, or refuse to act; and the trustee or trustees so elected shall have equal power and authority with the trustees hereby appointed.

SEC. 4. *Be it further enacted*, That said trustees, or a majority of them, shall have power to make such regulations and by-laws as are usual in such seminaries.

[Read three times and ratified in General Assembly, this 29th day of November, A. D., 1852.]

CHAPTER CLXXIX.

AN ACT TO AMEND "AN ACT TO INCORPORATE ROBESON INSTITUTE, IN THE COUNTY OF ROBESON, AND FOR OTHER PURPOSES."

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That an act entitled "An act to incorporate Robeson Institute, in the county of Robeson," passed at the session of the General Assembly of 1850-'51 be so amended as to prohibit the sale or barter of spirituous liquors within three miles of said institute, and that it shall not be lawful for any person or persons to sell or barter any spirituous liquors within three miles of the Red Springs Academy, in the county of Robeson, Cumberland Academy, in the county of Cumberland, and Lauringsburg High School, in the county of Richmond, and any person so offending shall be subject to the same penalties and collected in the like manner as hereinafter provided for the trustees of Robeson Institute.

SEC. 2. *Be it further enacted,* That any person or persons violating the provisions of this bill (act) shall, for every such violation, forfeit and pay twenty dollars, to be recovered by a warrant before a justice of the peace in the name of the trustees of Robeson Institute, one half to the use of the informer and the other half to the use of the institute.

SEC. 3. *Be it further enacted*, That this act shall be in force and take effect thirty days after the adjournment of this General Assembly.

[Read three times and ratified in General Assembly, this 24th day of December, 1852.]

CHAPTER CLXXX.

**AN ACT TO INCORPORATE THE TRUSTEES OF THE
WESLEYAN FEMALE COLLEGE AT MURFREESBOR-
OUGH, IN THE COUNTY OF HERTFORD.**

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That Lewis Thompson, H. H. Hardy, Augustus Holley, Samuel B. Spruill, John W. Southall, William N. H. Smith, R. H. Washington, James W. Hill, John W. Harrell, John V. Laurence, Ed. Jacobs, Starkey Sharp, Jas W. Hinton and Richard G. Cowper, and their successors in office be, and the same are hereby constituted a body politic and corporate, to be known and distinguished by the name and style of the trustees of "The Wesleyan Female College," and by that name shall have succession and a common seal, and shall be able and capable in law of holding lands and tenements and chattels, sufficient for the purposes of the college, and of suing and being sued, pleading and being impleaded.

SEC. 2. *Be it further enacted,* That the said corporation shall have power to make all rules, regulations and by-laws, that shall be necessary and proper for the good government of said college, and the management of the property, and finances of the same, and also to fill all vacancies amongst the trustees, from time to time, occasioned by death, resignation or other causes, and also to appoint such officers as they may think proper.

SEC. 3. *Be it further enacted*, That a majority of the trustees shall have power at any time hereafter, to increase the number of trustees of the college, should its success require it.

SEC. 4. *Be it further enacted*, That five of the trustees shall constitute a quorum for the transaction of any business connected with the college.

[Read three times and ratified in General Assembly
this 10th day of December, A. D., 1852.]

EMANCIPATION OF SLAVES.

CHAPTER CLXXXI.

AN ACT TO AMEND "AN ACT TO EMANCIPATE LUCY, A SLAVE, AND HER CHILD LAURA," PASSED AT THE SESSION OF 1850-51.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the act aforesaid passed at the last session of the General Assembly be so amended that in every part of said recited act in which the word "John Selph" occurs, the same shall be stricken out and the words "Gurdon Deming" substituted therefor, and that all the provisions and restrictions of said act shall operate and have the same force which the same would have had if the words Gurdon Deming had been used in the said recited act.*

SEC. 2. *Be it further enacted, That this act shall be in force from and after its passage.*

[Read three times and ratified in General Assembly this 27th day of December, A. D., 1852.]

CHAPTER CLXXXII.

AN ACT TO EMANCIPATE JAMES LANGFORD, A SLAVE.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That James Langford, the property of Jordan Beal, of the county of Northampton, be, and he is hereby, with the consent of said owner emancipated and set free, by the name of James Langford, shall hereafter possess and exercise all the rights and privileges which are enjoyed by other free persons of color in this State: Provided, nevertheless, That before the said slave shall be emancipated, he shall give bond and good security in the sum of five hundred dollars, payable to the State of North Carolina, conditioned that the said James Langford shall honestly and correctly demean himself, and shall not become a parish charge, which bond shall be approved by the court of pleas and quarter sessions of Northampton county and be deposited in the office of said court, which bond may be sued upon to the use of the parish, or of any person injured by the misconduct of said slave: And provided further, That if the said James Langford shall, at any time hereafter remove from the said county of Northampton, and remain out of said county for the space of thirty days, he shall forfeit his freedom.

[Read three times and ratified in General Assembly,
this 22d day of December, A. D., 1852]

GRANTS OF LAND.

CHAPTER CLXXXIII.

AN ACT IN FAVOR OF JOHN SMITH, OF NEW HANOVER.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the secretary of state be and he is hereby authorized and required to issue to John Smith, of the county of New Hanover, a grant for ten acres of land on the tide swamp or marsh opposite the town of Smithville, on the east side of Battery Island, called and known as the Battery Island Flats, under the same rules and regulations as are now provided by law, which grant shall have effect and be operative for the term of fifty years and no longer. •

SEC. 2. • *Be it further enacted,* That the said John Smith, his heirs and assigns, shall have the exclusive right and privilege to occupy, use and enjoy said ten acres of land for the purpose of planting and raising oysters for the markets of this State alone for the term aforesaid.

SEC. 11. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 25th day of December, A. D., 1852.]

CHAPTER CLXXXIV.

AN ACT TO CONFIRM A GRANT HERETOFORE ISSUED TO B. H. STANMIRE.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That a grant, number nine hundred and eighteen, [918] bearing date the 28th day of September, 1849, issued to B. H. Stanmire, assignee of Ailsey Medlin, for six hundred and forty acres of land in Cherokee county, be, and the same is hereby validated and declared good and effectual to pass all the right of the State in and to said land, any law to the contrary notwithstanding.

SEC. 2. *Be it further enacted,* That this act shall be in force from and after its passage.

[Read three times and ratified in General Assembly this 21st day of December, A. D., 1852.]

ICE COMPANY.

CHAPTER CLXXXV.

AN ACT TO INCORPORATE THE FAYETTEVILLE ICE COMPANY.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That William L. Hall, Jno. Waddill, J. D. Williams, Sam'l T. Hawley, Jno. H. Cooke, their associates and successors, be and they are hereby declared a body politic and corporate under the name and style of the "Fayetteville Ice Company," and by that name shall have succession and a common seal, and shall be entitled to all the privileges granted to other corporations under an act entitled "An act concerning corporations passed by the General Assembly at the session of 1850-51.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

INSURANCE COMPANIES.

CHAPTER CLXXXVI.

AN ACT TO INCORPORATE A MUTUAL INSURANCE COMPANY IN THE TOWN OF FAYETTEVILLE.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That Henry Lilly, S. T. Hauley, D. A. Ray, Geo. McNeill, H. L. Myrover, Wm. McDaurin, Thomas S. Lutterloh, A. Hall, Wm. Warden, J. G. Shepherd, A. A. McKethan, Wm. McIntyre, Nathan Stedman, John H. Cook, Jas. Kyle, Charles Benbow and McD. Williams, and all other persons who may hereafter associate with them in the manner herein prescribed, shall be a corporation by the name of "The Fayetteville Mutual Insurance Company," for the purpose of insuring their respective dwelling-houses, stores, shops and other buildings, household furniture, merchandize and other property against loss or damage by fire.

SEC. 2. *Be it further enacted,* That all persons who shall hereafter insure with the said corporation, and also their heirs, executors, administrators and their assigns, continuing to be insured in said corporation as hereinafter provided, shall thereby become members thereof during the period they shall remain insured by said corporation, and no longer.

SEC. 3. *Be it further enacted,* That the affairs of the company shall be managed by a board of directors, consisting of not less than thirteen nor more than

twenty-five members, as hereinafter provided. All vacancies happening in said board may be filled by the remaining directors for the remainder of the year or time for which they were elected, and five members shall constitute a quorum for the transaction of business.

SEC. 4. *Be it further enacted,* That the above mentioned persons in section first shall be the first directors of said corporation, and shall continue in office for one year after the passage of this act, and until others are chosen in their place. They shall appoint one of their number president of the company and such other officers as they may deem necessary to carry on the affairs of the company under such rules and regulations as the company may prescribe, which board of directors shall thereafter be elected annually at such time and place in the town of Fayetteville as the corporation in their by-laws shall appoint, of which election public notice shall be given in at least one of the public newspapers printed in said town; such election shall be made by ballot and by a plurality of the votes of the members or their proxies then present, allowing to each member one vote for every hundred dollars insured in said company.

SEC. 5. *Be it further enacted,* That the directors may determine the rates of insurance, the amount to be insured and the sum to be deposited for any insurance.

SEC. 6. *Be it further enacted,* That every person who shall become a member of said corporation by effecting insurance therein, shall, before he receives his policy, deposit his promissory note for such a sum of money as shall be determined by the directors. A

part, not exceeding ten per cent. of said notes, shall immediately be paid and the remainder of the said deposited note shall be payable in part or the whole at any time when the directors shall deem the same requisite for the payment of losses by fire and such incident expenses as shall be necessary for transacting the business of said company; and at the expiration of the term of insurance, the said note, or such part of the same as shall remain unpaid, after deducting all losses and expenses accruing during said term, shall be relinquished and given up to the maker thereof.

SEC. 7. *Be it further enacted*, That every member of said company shall be bound to pay for such losses and such necessary expenses aforesaid, accruing in and to said company, in proportion to the amount of his deposit note; and all buildings insured by this company, together with the right, title and interest of the assured to the land; on which they stand, shall be, and are hereby pledged to said company, and said company shall have a lien thereon in nature of a mortgage to the amount of this deposit note, which shall continue during his policy, the lien to take effect whenever the said company shall file with, and have entered in the book of mortgages kept by the register of the county where the property is situate a memorandum of the name of the individual insured, a description of the property, the amount of the deposit note, and the term for which said policy shall continue.

SEC. 8. *Be it further enacted*, That suits of law may be maintained by said corporation against any of its members for the collection of said deposit notes, or any assessment thereon, or for any other cause relating to the business of said corporation, also suits at

law may be prosecuted and maintained by any member against said corporation for the losses or damages by fire, if payment is withheld more than three months after the company are duly notified of such losses, and no member of the corporation not being in his individual capacity a party of such suit shall be incompetent as a witness in any such cause on account of his being a member of said company.

SEC. 9. *Be it further enacted,* That the directors shall, after receiving notice of any loss or damage by fire sustained by any member, and ascertaining the same, or after the rendition of any judgment as aforesaid against said company for loss or damage, settle and determine the sums to be paid by the several members thereof, as their respective proportion of such loss, and publish the same in such manner as they shall see fit, or as the by-laws shall have prescribed, and the same [sum] to be paid by each member shall always be in proportion to the original amount of his deposit note or notes, and shall be paid to the treasurer within thirty days next after the publication of said notice; and if any member shall, for the space of thirty days after the publication of said notice, neglect or refuse to pay the sum assessed upon him as his proportion of the loss aforesaid, in such case the directors may sue for and recover the whole amount of his deposit note or notes, with costs of suit, and the amount thus collected shall remain in the treasury of said company, subject to the payment of such losses and expenses as have or may hereafter accrue, and the balance if any remain shall be returned to the party from which it was collected, on demand, in thirty days from the expiration of the term for which insurance was made, and the president and directors may at their discretion cancel the policy

of any member who shall, after having sixty days' notice refuse or neglect to pay any assessment made on said premium notes.

SEC. 10. *Be it further enacted*, That no policy shall be issued by said company until application shall be made for insurance for fifty thousand dollars at least.

SEC. 11. *Be it further enacted*, That the operation and business of the corporation shall be carried on and conducted at such place, in the town of Fayetteville, as shall be designated by a majority of the company present at any regular meeting.

SEC. 12. *Be it further enacted*, That it shall be lawful for the said corporation to loan such portion of their money on hand, as may not be immediately wanted for the purposes of said corporation, to be secured by mortgage on unencumbered real estate, of double the value of the sum so loaned, or, by bond, with two securities, to be approved by the executive committee or the board of directors.

SEC. 13. *Be it further enacted*, That in all cases where a permanent lien cannot or is not intended to be created, the directors or executive committee may require an indemnity instead thereof, by an approved surety or sureties on the premium note. The directors or executive committee may at any time, when a majority of their whole number shall concur therein, require further surety on the premium note, and in case the assured shall neglect or refuse to comply with the request of the directors in this respect for two calendar months after he, she, or they shall be apprized

thereof by a notice in writing from the secretary for that purpose, served upon said assured, his, her, or their policy shall become null and void, and the amount thereof paid upon said premium note shall be forfeited to said company, and the said premium note shall continue in force, so as to enable the said corporation to collect upon it any losses or expenses that accrue previous to the termination of said policy.

SEC. 14. *Be it further enacted,* That the lien in the nature of a mortgage to the amount of his deposite note, on the buildings insured, and the right, title and interest of the assured to the lands on which they stood shall continue and be a subsisting lien or mortgage, so as to enable the said company to recover thereby such losses and such expenses as accrued in and to said company, in proportion to the amount of his deposite note: *Provided,* The same accrued previous to the termination of said policy.

SEC. 15. *Be it further enacted,* That the memorandum to be filed with the register to effect such lien shall contain the name of the persons insured or desirous of being insured, signed by him or her, or by his or her agent, and if signed by an agent, such signing to be attested by a witness; a description of the buildings, the situation and location of the land whereon they stand, with reference to other person's land, and what village, town, city and county situated, and if situated in a town or city, the number of the land, lot or lots to be insured, according to the plan of such town or city, or by what other lots of other persons (naming them) the same is bounded, the amount of the deposite note, and the time for which the policy is to continue.

SEC. 16. *Be it further enacted,* That the clerks of the several courts of pleas and quarter sessions, by themselves or their deputies, and also any one of the acting justices of the peace, in their respective counties wherein the land insured or to be insured is situated, shall have authority in their respective counties to take and certify the acknowledgment or probate of any and all memoranda, the object of which is to procure such insurance, and to create such lien that shall be presented to them for acknowledgment or probate, upon the acknowledgment of the person whose name is mentioned in the said memorandum as the applicant for insurance or upon proof or oath, by an attesting witness that he saw it signed or heard it acknowledged by the person named therein as applicant.

SEC. 17. *Be it further enacted,* That whenever the said corporation, by any of its agents, or any person *that* is desirous to insure property with said corporation, shall present to a register of the county wherein such property is situated, such a memorandum, certified either by such clerk or such justices of the peace as aforesaid, it shall be the duty of such register to receive the same, endorse on said memorandum the day on which it is presented and delivered to him for registration, and immediately to register the same, with such certificate, and return the same after registering it to the party that presented it, upon his request, taking for his fee for registering the sum of forty cents, and in case said register do fail to comply with this provision he shall be liable in like manner as for his failure to comply with the provisions of the 26th section of the 37th chapter of the Revised Statutes.

SEC. 18. *Be it further enacted,* That in all proceedings at law or in equity, the registry of such memorandum, or the copy thereof certified by such register, shall be received in evidence in behalf of, or against said corporation in like manner as the original memorandum, except when, upon affidavit, a variance between such original and the registry is asserted to exist, and notice has been previously given to produce the original, in which case the original shall be produced, or its absence accounted for by said corporation.

SEC. 19. *And be it further enacted,* That this act shall continue in force thirty years, and that it shall take effect immediately after its passage.

[Read three times and ratified in General Assembly,
this 24th day of December, A. D., 1852.]

CHAPTER CLXXXVII.

AN ACT TO INCORPORATE "THE CASWELL MUTUAL FIRE INSURANCE COMPANY" IN THE TOWN OF MILTON, CASWELL COUNTY, NORTH CAROLINA

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That Nathaniel J. Palmer, Wiley Jones, Samuel Watkins, George Thompson, Samuel B. Holdon, W. Magehee, Thomas L. Johnson, and Thomas Lea, of the county of Caswell, and all other persons who may hereafter associate with them in the manner herein prescribed, shall be a corporation by the name of the "Caswell Mutual Fire Insurance Company," for the purpose of insuring their respective dwelling houses, stores, shops, and other buildings, household furniture, merchandize, and other property, against loss or damage by fire.

SEC. 2. *Be it further enacted,* That all persons who shall hereafter insure with the said corporation, and also their heirs, executors, administrators, and their assigns, continuing to be insured in said corporation as hereinafter provided, shall thereby become members thereof during the period they shall remain insured by said corporation, and no longer.

SEC. 3. *Be it further enacted,* That the affairs of the company shall be managed by a board of directors, consisting of eight members, as hereinafter provided. All vacancies happening in said board may be filled by the remaining directors for the remainder of

the year, or time for which they were elected, and a majority of the whole shall constitute a quorum for the transaction of business.

SEC. 4. *Be it further enacted.* That the above mentioned directors in section first shall be the first directors of the said corporation, and shall continue in office for one year after the passage of this act, and until others are chosen in their places, whi h board of directors shall hereafter be chosen in each year at such time and place in the town of Milton as the corporation in their by-laws shall appoint, of which election public notice shall be given in at least one of the public newspapers printed in the State, at least thirty days immediately preceding such election; such election shall be holden under the inspection of three members not being directors, to be appointed previous to every election by the board of directors, and such election shall be made by ballot, and by a plurality of the votes of the members or their proxies there present, allowing to each member one vote for every one hundred dollars insured in said company.

SEC. 5. *Be it further enacted,* That the directors may determine the rates of insurance, the amount to be insured, and the sum to be deposited for any insurance.

SEC. 6. *Be it further enacted,* That every person who shall become a member of said corporation by effecting insurance therein, shall before he receives his policy deposit his promissory note for such sum of money as shall be determined by the directors; a part, not exceeding ten per cent of said notes shall be payable in part, or the whole at any time when the direc-

tors shall deem the same requisite for the payment of losses by fire, and such incidental expenses as shall be necessary for transacting the business of the company, and at the expiration of the term of insurance, the said note or such part of the same as shall remain unpaid after deducting all losses and expenses accruing during said term, shall be relinquished and given to the maker thereof.

SEC. 7. *Be it further enacted*, That when any property insured with this corporation shall be alienated by sale or otherwise, the policy shall thereupon be void and be surrendered to the directors of the company to be cancelled, and upon such surrender, the assured shall be entitled to his deposit notes upon the payment of his proportion of all losses and expenses that have accrued prior to such surrender; but the grantee or alienee having the policy assigned to him, may have the same ratified and confirmed to him, for his own proper use and benefit upon application to the directors and with their consent, within thirty days next after such alienation, on giving proper security to the satisfaction of the directors for such portion of the deposit or premium note, as shall remain unpaid, and by such ratification and confirmation the party causing such security to be given shall be entitled to all the rights and privileges, and be subject to all the liabilities to which the original party to whom the ——— issued was entitled and subject under this act.

SEC. 8. *Be it further enacted*, That that every member of the company shall be bound to pay for such losses and such necessary expenses also said accruing in and to the said company in proportion to the amount of his deposit note, and all buildings insured by this

company, together with the rights, title and interest of the assured to the lands on which they stand, shall be, and are hereby pledged to the said company, and the company shall have a lien thereon, in the nature of a mortgage to the amount of his deposit note, which shall continue during his policy, the lien to take effect whenever the said company shall file with, and have entered on the book of mortgages kept by the register of the county where the property is situated, memorandum of the name of the individual insured, or description of the property, the amount of the deposit note, and the term for which the policy shall continue.

SEC. 9. *Be it further enacted,* That suits at law may be maintained by the said corporation against any of its members for the collection of the said deposit notes, or any assessment thereon, or for any other cause relating to the business of the corporation, also suits at law may be prosecuted and maintained by any member of the company against the corporation for losses or damages by fire, if payment is withheld more than three months after the company has been duly notified of such losses or damages; and no member of the corporation not being in his individual capacity a party of such a suit shall be incompetent as a witness in any such case on account of his being a member of the company.

SEC. 10. *Be it further enacted,* That the directors shall, after receiving notice of any loss or damage by fire sustained by any member, and ascertaining the same, or after the rendition of any judgment as aforesaid against the company for loss or damage, settle and determine the sums to be paid by the several members thereof as their respective proportion of such loss and

publish the same in such manner as they shall see fit, or as the by-laws shall have prescribed, and the same [sum] to be paid by each member shall always be in proportion to the original amount of his deposit, note or notes and shall be paid to the treasurer of the company within thirty days next after [after] the publication of said notice; and if any member shall, for the space of thirty days after the publication of said notice, neglect or refuse to pay the sum assessed upon him as his proportion of the loss aforesaid, in such case the directors may sue for and recover the whole amount of his deposit note or notes, with the costs of suit, and the amount thus collected shall remain in the treasury of the company subjected to the payment of such losses and expenses as have or may thereafter accrue, and the balance, if any remain, shall be returned to the party from which it was collected or demanded in thirty [days] from the expiration of the term for which insurance was made.

SEC. 11. *Be it further enacted.* That if the whole amount of deposit notes shall be insufficient to pay the loss occasioned by any fire, in such case the sufferers insured by the company shall receive, towards making good their respective losses, a proportionate dividend of the whole amount of said notes according to the sums by them respectively insured, in addition thereto a sum to be assessed on all the members of the company on the same principle as regulated the amounts of their respective deposit notes, but not exceeding one dollar on every hundred dollars by them respectively insured, and no member shall be required to pay for any loss occasioned by fire at any one time more than one dollar on every hundred dollars insured in said company in addition to the amount of his deposit note,

nor more than that amount for any such loss after his said note shall have been paid in and expended, but any member upon the payment of the whole of his deposit note and surrendering his policy before any subsequent loss or expense has accrued, may be discharged from the company.

SEC. 12. *Be it further enacted,* That no policy shall be issued by the company until application shall be made for insurance for fifty thousand dollars at least.

SEC. 13. *Be it further enacted,* That the operation and business of the corporation shall be carried on and conducted at such place in the town of Milton as shall be designated by a majority of the company at any regular meeting.

SEC. 14. *Be it further enacted,* That the affairs of the said company shall be managed by a board of directors, consisting of fifteen members, and that five directors being present at any meeting of said board, the said members shall constitute a board for the transaction of business.

SEC. 15. *Be it further enacted,* That the eight directors chosen by the said company, at their meeting on the first Tuesday in May, shall appoint seven other directors from the members of the company, who shall be the board of directors elected; that all vacancies happening in the board may be filled by the remaining directors for the remainder of the year or time for which they were elected, and that the board of directors to the number herein required shall thereafter be chosen as is provided in this act.

SEC. 16. *Be it further enacted,* That hereafter a part not exceeding ten per cent. of the promisory note required to be deposited by every person, on his becoming a member, and before he receives his policy, shall be immediately paid instead of the five per cent. as heretofore required.

SEC. 17. *Be it further enacted,* That in all cases where a permanent lien cannot or is not intended to be created, the directors or executive committee may require an indemnity instead thereof, by an approved surety or sureties on the premium note. The directors or executive committee may at any time, when a majority of their whole number shall concur therein, require a further security on the premium note, and in case the assured shall neglect or refuse to comply with the request of the directors in this respect for two calendar months after he, she, or they shall be apprized thereof by a notice in writing from the secretary for that purpose, served upon the assured, his, her, or their policy shall become null and void, and the amount theretofore paid upon said premium note continue in force so as to enable the said corporation to collect upon it any losses or expenses that accrued previous to the termination of the said policy.

SEC. 18. *Be it further enacted,* That the lien in the nature of a mortgage to the amount of his deposit note on the buildings insured, and the rights, title, and interest of the assured to the lands on which they stood, shall continue and be a substituting lien or mortgage so as to enable the said company to recover thereby such losses and such expenses as accrued in and to the said company, in proportion to the amount of his deposit note, provided the same accrued previous to the termination of his policy.

SEC. 19. *Be it further enacted,* That the memorandum to be filed with the public register in order to effect such lien, shall contain the name of the person insured or desirous of being insured, signed by him or her, or by his or her agent, and if signed by an agent, such signing to be attested by a witness, a description of the buildings, the situation and location of the land whereon they stand with reference to other persons' lands, and in what village, town, city, and county situated, and if situated in a town or city, the number of the land, lot or lots to be insured according to the plan of the said town or city, or by what other lots of other persons (naming them) the same is bounded, the amount of the deposit note, and the term for which the policy is to continue.

SEC. 20. *Be it further enacted,* That the clerks of the several courts of pleas and quarter sessions, by themselves or their deputies, and also any one of the acting justices of the peace in their respective counties wherein the said land insured or to be insured is situated, shall have power and authority in their respective counties to take and certify the acknowledgment or publication of any and all memoranda, the object of which is to procure such insurance and to create such lien, that shall be presented to them for acknowledgment or probate, upon the acknowledgment of the person whose name is mentioned in the said memorandum as the applicant for insurance, or upon proof on oath by an attested witness that he saw it signed or heard it acknowledged by the person named therein as an applicant.

SEC. 21. *Be it further enacted,* That whenever the said corporation by any of its agents, or any person that is desirous to insure property with the said corporation, shall present to the register of the county wherein such property is situated such a memorandum, certified either by such clerk or by such justice of the peace as aforesaid, it shall be the duty of such register to receive the same, endorse on said memorandum the day on which it is presented and delivered to him for registration, and immediately to register the same with such certificate, and return the same after registering it to the party that presented it, upon his request, taking as his fee for registering, the sum of forty cents; and in case the said register shall fail to comply with this provision he shall be liable in like manner as for his failure to comply with the provisions of the 26th section of 37th chapter of the revised statutes.

SEC. 22. *Be it further enacted,* That in all proceedings in law or equity, the registry of such memorandum, or the copy thereof certified by such register shall be received in evidence in behalf of or against the said corporation in like manner as the original memorandum, except where upon affidavit, a variance between such original and the registry is asserted to exist, and notice has been previously given to produce the original, in which case the original shall be produced or its absence accounted for by the said corporation.

SEC. 23. *Be it further enacted,* That it shall be lawful for the said corporation to loan such portion of their money on hand as may not be immediately wanted for the purposes of the corporation, to be secured by mortgage on unencumbered real estate of double the sum so loaned, or by bond with two sureties to be approved by the executive committee or the board of directors.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

CHAPTER CLXXXVIII.

AN ACT TO INCORPORATE THE GREENSBORO' MUTUAL LIFE INSURANCE AND TRUST COMPANY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That Ralph Gorrell, Lindon Swaim, Jesse H. Lindsay, Richard Green, David McLean, Richard Sterling, John M. Logan, John L. Cole, D. P. Weir, James Jemmeson, E. W. Ogburn, Robert M. Sloan, D. C. Mebane, Robert P. Dick, E. Watson, D. F. Caldwell, John A. Gilmer, John M. Moorehead, Henry B. Elliott, Robert H. Scales, sen'r, Samuel Hargrave and Benjamin Trollinger, and all and every other person or persons who may hereafter become associated with them, their successors and assigns, be [and] are hereby [are] created and made a body corporate and politic by the name, style and title of "The Greensboro' Mutual Life Insurance and Trust Company," to be located in the town of Greensboro', in the county of Guilford, at such place as may be assigned by a majority of the company present, at any regular meeting, and by that name they and their successors, during the continuance of the act, shall and may have succession, and shall be capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended in all matters and causes whatsoever.

SEC. 2. *Be it further enacted,* That said company shall have authority to make and to have a common seal, and the same to break, alter and renew at

pleasure, and also to ordain, establish and put in execution such by-laws, ordinances and regulations as shall appear necessary and convenient for the government of said corporation, not being contrary to the laws of the United States or of this State, and generally to do all and singular the matters which to them shall lawfully appertain to do for the well being of said corporation and the managing and ordering the affairs thereof, and also that they and their successors, by the name of "The Greensborough Mutual Life Insurance and Trust Company," shall have power to purchase, receive, have, hold and enjoy to them and their successors lands, tenements, hereditaments, goods and chattels of what nature, quality or kind soever, real, personal or mixed, and the same from time to time to sell, demise, grant, alien or dispose of: *Provided*, That the said real estate shall be only such as shall be necessary to accommodate the said corporation in the transaction of the business thereof, or shall be taken and held as security for the payment of debts due the corporation, and that the yearly income of said real estate shall not any time exceed ten thousand dollars.

SEC. 3. *Be it further enacted*, That all persons who shall at any time hereafter insure in or within said corporation for the whole continuance of life, shall, while they continue so insured, be deemed and taken as members of said corporation, entitled to all the rights, privileges and profits of said corporation, and that the property and concerns of said corporation shall be managed by thirteen directors, who shall choose from their own body a president, all of whom shall be citizens of the State, and members of this corporation. They shall hold their office for one year, or until others are chosen. An annual meeting of the members of the

corporation shall be held for the purpose of electing a board of directors at such time and place in the town of Greensboro', as the corporation in its by-laws shall appoint, of which election public notice shall be given in one or more public newspapers printed at Greensborough, at least thirty days preceding the election, and such election shall be made by ballot; a plurality of votes present shall ensure an election, and if any of the said directors shall die, or refuse to serve, or neglect to act in their said office, for the space of three months, then and in every such case, the board of directors shall have power to fill such vacancies until the next annual meeting, and that a majority of the foregoing names mentioned in section 1st of this act, may, and shall meet in the town of Greensborough, within three months after the ratification of this act, then and there to organize said company, by electing a board of directors, from and amongst the names mentioned in the 1st section of this act, who shall continue in office until the next annual meeting of said corporation.

SEC. 4. *Be it further enacted*, That it shall be lawful for said corporation to insure their respective lives, and to make all and every insurance appertaining to, or connected with life risks, of whatsoever kind or nature, as well of the sound in health, as the infirm and invalid.

SEC. 5. *Be it further enacted*, That it shall be lawful for any married woman, by herself, and in her name, or in the name of any third person, with his assent as her trustee, to cause to be insured for her sole use, the life of her husband, for any definite period or for the term of his natural life; and in case of her surviving her husband, the sum or nett amount of insur-

ance becoming due and payable by the terms of the insurance, shall be payable to her, to and for her own use, free from the claims of the representatives of her husband or any of his creditors.

SEC. 6. *Be it further enacted,* That the husband may insure his own life for the sole use and benefit of his wife and children, and in case of the death of the husband, the amount thus insured shall be paid over to the wife and children or their guardians (if under age) for her or their own use, free from the claims of the representatives of the husband or any of his creditors.

SEC. 7. *Be it further enacted,* That the said company be authorized and empowered to accept and receive moneys in trust to accumulate the interest or income thereof at such rates and in such manner as may be agreed on, or to allow or pay such interest or income thereon, as may be stipulated and agreed on between the parties: *Provided,* That no part of said funds of said corporation shall be loaned to any officer or director of this corporation; and that in all discounts or loans to be made by said corporation, it shall not take more than 6 per cent. per annum, which interest shall be taken in advance at the time of discount.

SEC. 8. *Be it further enacted,* That the said company shall and may issue certificates for the amount of all moneys deposited with them in trust, which certificates shall be assignable and transferable under such regulations as may be prescribed by the president and directors, and that all certificates or evi-

dences of deposits made by the proper officer shall be as effectual to bind said corporation as if they were under the common seal thereof.

SEC. 9. *Be it further enacted,* That it shall and may be lawful to invest the capital stock of said company, accruing from the premiums for insurance, for the grant and sale of annuities, and endowments in trust, or for any other transaction authorized by these acts, in the funded debts of the United States or any of the United States, or in the stock of any chartered or incorporated bank, or in the stock or loan of any chartered or incorporated canal, bridge, navigation, or road company, or any company which now is, or hereafter may be incorporated by this State or the United States.

SEC. 10. *Be it further enacted,* That the capital stock of said company shall not exceed two hundred and fifty thousand dollars, unless by the consent of the General Assembly.

SEC. 11. *Be it further enacted,* That the president and directors for the time being, shall have power to appoint such officers, clerks, agents, and other persons as shall be necessary for conducting and executing the business of said corporation, as well in the town of Greensborough as elsewhere, and to allow the said persons so appointed such compensation for their services respectively as they shall deem reasonable, and generally to exercise all other powers and authorities for the well-governing and ordering the affairs and funds of said corporation, as this act confers or allows, or as may hereafter be allowed by the laws, regulations, and ordinances of said corporation.

SEC. 12. *Be it further enacted*, That no policy shall be issued by this corporation until application be made for insurance for forty thousand dollars at least.

SEC. 13. *Be it further enacted*, That this act shall continue in full force until the year of our Lord one thousand nine hundred and twelve.

SEC. 14. *Be it further enacted*, That this act shall take effect immediately after its ratification.

[Read three times and ratified in General Assembly, this 23d day of November, A. D., 1852.]

CHAPTER CLXXXIX.

AN ACT TO INCORPORATE "THE WILMINGTON FIRE AND MARINE INSURANCE COMPANY."

WHEREAS, John Dawson, John A. Taylor, O. G. Parsley, John McRae, Edward Kiddier, Miles Costin, George Harris, W. W. Pierce, A. J. De Rossett, Jr., James Anderson, Henry Nutt and P. K. Dickenson, and others, having prayed for the privilege of being incorporated under the name and style of "The Wilmington Fire and Marine Insurance Company" for the purpose of enabling them to carry on the business of fire and marine insurance—Therefore,

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That all such persons as shall be stockholders of the said company shall be and they are hereby declared to be from time to time a body politic and corporate, in fact and in name, by the name and style of "The Wilmington Fire and Marine Insurance Company," and that by the said name they and their successors shall and may have continual succession and a common seal, may sue and be sued and may be capable of purchasing, holding or conveying any estate, real or personal for the use of the said corporation, subject to the restrictions hereinafter mentioned.

SEC. 2. *Be it further enacted,* That the capital stock of the said corporation shall be one hundred thousand dollars, to be divided into shares of one hun-

dred dollars each, which shall be payable by each subscriber at such time or times as it may be called for by the president and directors and in such proportions or instalments as they shall deem necessary, and if any subscriber, his executors, administrators or assigns, shall fail to pay the sum so called for, upon each and every share so held by him, her or them within sixty days after the same has been called for and demanded, every such share and all the moneys which may have been paid or profits which may have arisen thereon, shall be forfeited to the use of the said corporation, and the holder or holders of such share or shares shall moreover be liable for the remaining sums due or payable upon the said shares whenever the same shall be called for by the said president and directors.

SEC. 3. *Be it further enacted,* That the said corporation are allowed and authorized to increase the said capital from time to time as they may find necessary and expedient to three hundred thousand dollars.

SEC. 4. *Be it further enacted,* That the said corporation hereby created shall have power and authority to make insurance upon vessels, goods, wares and merchandize, freights, bottomry and respondentia, and that they may also cause themselves to be insured against maritime risks upon the interests they may have in any vessels, goods or merchandize in virtue of any loans or bottomry or respondentia, or of any policy or contract of insurance, and the said corporation shall have power and authority to make insurance upon dwelling-houses, stores, shops and other buildings, household furniture, merchandize and property against loss or damage by fire.

SEC. 5. *Be it further enacted,* That the stock and affairs of the said corporation shall be managed and conducted by seven directors, who shall be residents of the State, who shall be elected on the first Monday in March in each and every year and such place in the town of Wilmington as the board of directors for the time being shall appoint, and shall hold their offices for one year and until others shall be chosen to supply their places, and no longer, and notice of such time and place of such annual election shall be published for one week preceding the same in one or more papers in said town; and every such election shall be held under the inspection of three or more stockholders in said company, not being directors, to be previously appointed for that purpose by the board of directors, and shall be chosen by ballot by a plurality of votes of the stockholders present, or by their proxies, allowing one vote for every share in stock.

SEC. 6. *Be it further enacted,* That John Dawson, John A. Taylor, O. G. Parsley, John McRae, Edward Kidder, Miles Costin, George Harriss, W. W. Pierce, A. J. DeRossett, Jr., James Anderson, Henry Nutt, and P. K. Dickenson shall be commissioners, whose duty it shall be on the first Monday in March, 1853, at some suitable place in the town of Wilmington, to open books to receive subscriptions to the capital stock of the said corporation, and five days' public notice shall be given by said commissioners of the time and place for the opening of such books in one or more of the newspapers printed in said town, which said books shall not be closed in less than thirty days from the time of opening. If it shall appear at the expiration of thirty days, that more than one thousand shares have been subscribed for, the said commission-

ers shall reduce and proportion them among the subscribers in fair and equal proportion to the amount of capital stock required, (and if one thousand shares should not be subscribed within the thirty days aforesaid, the commissioners may keep open the books for subscription until the whole of the stock shall be taken, and close them previous thereto at their discretion,) and the said commissioners shall give a like notice for a meeting of the stockholders to choose seven directors, and the said commissioners shall be inspectors of the first election of directors of the said insurance company, and shall certify under their hands the names of those duly elected, and deliver over to them the subscription books, and the time and place of holding the first meeting of directors shall be fixed by the said commissioners, and the directors so chosen at such meeting, or at annual elections, shall, as soon as may be after every election, choose out of their own body a person to be president; and in case of the death or resignation of the president or of any director, such vacancy or vacancies may be filled for the remainder of the year in which they may happen, by the board of directors; and in case of the absence of the president, the board of directors may have power to appoint a president *pro tempore*, who shall have and exercise such powers and functions as the by-laws of the said corporation may provide.

SEC. 7. *Be it further enacted*, That in case it should at any time happen that an election of directors should not be made on any day when, pursuant to this act, it ought to be made, the said corporation shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any other day to hold and make an election of directors in such manner as

shall have been regulated in the by-laws of the said corporation, not inconsistent with this act: *Provided*, That such election is made within sixty days thereafter.

SEC. 8. *Be it further enacted*, That the stock of the said corporation shall be assignable and transferable, according to such rules and subject to such restrictions and regulations as the board of directors may from time to time make and establish, and shall be considered personal property. But in case the said corporation shall have any demand or claim against any stockholder thereof, whether such claim is due or to become due at any future period, such stockholder shall not be entitled to make any transfer, sale, or conveyance of his or her stock in said corporation, or to receive any dividend thereon, until such claim or demand is paid, or secured to be paid, to the satisfaction of the board of directors, and unless such demand shall be paid or secured to be paid satisfactorily as aforesaid, within ninety days after the same shall have become due, then such stock of any such debtor, or so much thereof as shall be sufficient for that purpose, may be sold by the said corporation, under the direction of, and in such manner as the directors for the time being may think most advisable, and the proceeds thereof shall be applied towards the satisfaction of such claim or demand.

SEC. 9. *Be it further enacted*, That any three of the directors of the said corporation may form a board, and be competent to transact any business for the said corporation, and they shall have full power to alter and prescribe from time to time such by-laws, rules, and regulations as to them shall appear needful

and proper, touching the management and disposition of the stock, property, estate, and effects of the said corporation, the transfer of shares, and touching the duty and conduct of their officers and clerks, election of directors, and all other matters whatsoever which may appertain to the business of fire and marine insurance, and they shall also have power to appoint a secrétary and so many clerks and servants for carrying on said business, and for such periods and upon such terms as shall seem meet, to establish and fix such salaries and allowances to each of them, and also to the president, as to the said board shall appear proper: *Provided, always,* That such by-laws, rules, and regulations shall not be repugnant to the constitution and laws of this or of the United States, or any provision of this act.

SEC. 10. *Be it further enacted,* That all policies of insurance and other contracts which are authorized by this act and which shall be made or entered into by the said corporation, may be made under the seal thereof and shall be subscribed by the president, or such other officers as shall be designated for the purpose in the by-laws of said corporation, and attested by the secretary, and being so signed, executed and attested, shall be binding and obligatory upon the said corporation, according to the tenor, intent and meaning of this act and of such policies and contracts, and the insured may thereupon, in case of loss arising, maintain an action on the case against such corporation, and all such policies and contracts may be so made, signed, executed and attested and the business of the said corporation may be otherwise conducted and carried on without the presence of a board by such committee, or in such manner as may be pro-

vided for by the by-laws of said corporation, and the acts of such committee, or according to the mode thus prescribed, if done under and in conformity to the by-laws of the said corporation, shall be binding and obligatory on the said corporation to all intents and purposes.

SEC. 11. *Be it further enacted,* That the president and directors shall declare dividends of the profits of the said corporation in such manner and at such times as the by-laws and regulations of the corporation shall prescribe, and in case of any loss or losses whereby the capital stock of the corporation shall be impaired or lessened, no subsequent dividend shall be made until a sum equal to such diminution and arising from the profits of the said corporation shall have been added to the capital.

SEC. 12. *Be it further enacted,* That before the said corporation shall assume any risk in pursuance of this act, the capital stock shall be paid or fully secured to be paid in such manner as the board of directors may prescribe.

SEC. 13. *Be it further enacted,* That the members of the said corporation shall not be liable for any loss, damage or responsibility in their persons or property other than the property they have in the capital stock or funds of the said corporation to the amount of the shares respectively held by them and any profit arising therefrom not divided.

SEC. 14. *Be it further enacted,* That the president and directors, or a committee thereof, may invest the capital stock or other funds of the said corporation in such bank or other stocks as they may deem advisable, or may loan the same, for good personal security, from time to time and for such periods as they may think proper.

SEC. 15. *Be it further enacted,* That the said corporation shall not hold or purchase any real estate unless held for the purpose of securing some debt or debts that may be due to said corporation, or unless such real estate be necessary for the convenient transaction of the business of the said corporation.

SEC. 16. *Be it further enacted,* That the president and directors of the said company, or a majority of them, are hereby empowered, after giving at least five days notice in some newspaper published in the town of Wilmington, to open books at some convenient place in said town for receiving subscriptions for such additional stock to this corporation as they may deem expedient (not exceeding the amount provided for in this act,) in which the stockholders of the said company, for the time being, shall have the preference of all other persons for the first fifteen days after the books shall be opened as aforesaid of subscribing for so many whole shares as any of them shall choose, and the said president and directors are hereby required to observe in all other respects the same rules as are herein prescribed for receiving and adjusting the first subscription for the capital of the said corporation, and the subscribers for such additional shares of capital stock are hereby declared to be thenceforward in-

corporated into the said corporation, with all the privileges and advantages, and subject to all the liabilities of the original stockholders.

SEC. 17. *Be it further enacted*, That this act shall be and continue in force for the term of twenty years from and after the ratification thereof.

[Read three times and ratified in General Assembly this 27th day of December, A. D., 1852.]

COAL MINING COMPANY.

CHAPTER CXC.

AN ACT TO INCORPORATE "THE HILLSBORO' COAL MINING AND TRANSPORTATION COMPANY."

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Frederick Nash, Ed. Strudwick, Hugh Waddell, James S. Leathers, Spencer McClanahan, David F. Caldwell, and John A. Gilmer, and their associates, successors, and assigns, be and they are hereby constituted a body corporate and politic, by the name and style of "The Hillsboro' Coal Mining and Transportation Company," and as such shall [have perpetual] succession, and may have and use a common seal, and change the same at pleasure, and shall be capable to sue and be sued, plead and be impleaded, in any court of law and equity, and may also have, use, exercise, and enjoy all the powers, privileges, and rights proper and necessary for opening and working mines of the company, and of transporting to market and vending the produce of their own and other lands, mines, and manufactories, and shall also have power to purchase and hold all such property, real, personal, and mixed, as they may require for the purposes aforesaid: Provided, That the said company shall at no time hold or possess more than five thousand acres of land; and the said company shall have power, for the purposes aforesaid, to make such by-laws, rules, and regulations as*

may be necessary, and which shall be binding on the company, provided they be not repugnant to any law of this State or of the United States.

SEC. 2. *Be it further enacted*, That the capital stock of the said company shall be divided into ten thousand shares of one hundred dollars each, of which the lands, mines, boats, rights and other property of any of the stockholders shall constitute a part, at such prices as may be agreed upon between the owners thereof on the one part and those who may associate with them and constitute the aforesaid corporation by subscribing for stock payable in money on the part.

SEC. 3. *Be it further enacted*, That the subscriptions to the said capital stock shall be made at such times and places and in such manner as shall be made at such times and places and in such manner as shall be designated by the said Frederick Nash, Hugh Waddell, Ed. Strudwick, James S. Leathers, Spencer McClanahan, David F. Caldwell and John A. Gilmer, or a majority of them, and the shareholders shall be entitled at all meetings of the stockholders to one vote for each share so held in person or by proxy, and the shares of said capital stock shall be assignable and transferable as may be provided for by the by-laws of said company, and shall be considered as personal property.

SEC. 4. *Be it further enacted*, That the affairs of said company shall be managed by a board of seven directors, who shall be chosen annually by the stockholders, which board shall choose one of their number to be president and the president and directors so chosen shall serve for one year and until others shall be elected, as shall be provided by the laws of the cor-

poration; and until the first election of directors shall be held, the said Frederick Nash, Ed. Strudwick, Hugh Waddell, James S. Leathers, Spencer McClanahan, David F. Caldwell and John A. Gilmer, or a majority of them, shall have full power and authority to exercise all the corporate powers of the said company; and the president and directors, and their successors, or a majority of them, shall have full power and authority to manage the affairs of the said company under such powers as may be given them by the by-laws of the said company; and in case of any vacancy occurring in the presidency or board of directors of said company, the remaining directors shall have power to fill such vacancy until the next general election thereafter.

SEC. 5. *Be it further enacted,* That the rights, privileges and immunities hereinbefore granted in this act of incorporation shall extend to the term of ninety-nine years, and no further.

SEC. 6. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 6th day of November, A. D., 1852.]

GOLD MINING COMPANIES.

CHAPTER CXCI.

AN ACT CONCERNING THE CONRAD HILL GOLD MINING COMPANY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That an act passed at the General Assembly of 1850-51, entitled "An act to incorporate the Conrad Hill Gold Mining Company," be amended so that the act of incorporation shall read, "divided into shares of fifty dollars each, as now specified in the said act of incorporation.*

SEC. 2. *Be it further enacted, That this act shall take effect from and after its passage.*

[Read three times and ratified in General Assembly, this 21st day of December, A. D., 1852.]

CHAPTER CXCH.

AN ACT TO AMEND AN ACT PASSED IN 1850-51, TO INCORPORATE LEWIS GOLD MINING COMPANY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That an act passed at the session of the General Assembly of 1850-51, entitled "An act to incorporate the Lewis Gold Mining Company," be amended so that the act of incorporation shall read "divided into shares of sixteen dollars each," instead of "fifty dollars each," as now provided for by the said act of incorporation.*

SEC. 2. *Be it further enacted, That this act shall take effect from and after its passage.*

[Read three times and ratified in General Assembly, this 22d day of December, A. D., 1852.]

CHAPTER CXCH.

AN ACT TO INCORPORATE THE PHOENIX GOLD MINING COMPANY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That* J. D. Backman, Henry Longenecker, B. C. Bachman, Thomas Baumgardner, John F. Phroder, Henry Baumgardner, Chas. W. Cooper, David Longenecker, and such other persons as may hereafter be associated with them for the purpose of mining, extracting, and smelting gold and other metals and minerals, shall be and are hereby incorporated and made a body politic by the name and style of the "Phoenix Gold Mining Company," for the purpose of mining, extracting, and smelting gold and other metals and minerals in the State of North Carolina, and by that name they and their successors shall be persons in law capable of suing and being sued, pleading and being impleaded, in all courts and pleas whatsoever, and that [they] and their successors shall have a common seal, and make, change, or alter the same at their pleasure; and also that they and their successors by the same name and style shall be in law capable of purchasing, leasing, holding, and conveying any estate, real or personal: *Provided*, That said company shall at no time hold more than ten thousand acres of land.

SEC. 2. *Be it further enacted, That* the capital stock of said company shall not be less than two hundred thousand dollars, or more than three hundred

thousand dollars, and shall be divided into such shares as shall be agreed upon at a general meeting of the stockholders.

SEC. 3. *Be it further enacted*, That for the managing of the affairs of the company, there shall be chosen annually a board of directors, consisting of not less than five, and the said board shall elect from their number a president and secretary, and a majority of said board of directors present at any meeting shall have power to transact business, not less than three to constitute a board for the transaction of business. The election of said board of directors shall take place at such time and place, and in such manner, as shall be prescribed by the by-laws.

SEC. 4. *Be it further enacted*, That each share shall be entitled to one vote, and the holder or holders of said shares shall vote either by proxy or in person.

SEC. 5. *Be it further enacted*, That the president or any three of the directors shall have power to call special meetings of the stockholders to supply vacancies in their own body, to appoint said [such] officers or agents as the stockholders in general meeting shall authorize. Dividends of the nett profits of said company shall be made at such times as shall be determined by the stockholders in general meeting.

SEC. 6. *Be it further enacted*, That the stock of said company shall be deemed personal estate, and pass as such to the representatives of each stockholder, and may be transferable, and certificates thereof, issued in such manner and form as the president and directors, or the stockholders in general meeting, shall

from time to time direct: *Provided*, That nothing herein contained shall be so construed as to prevent the said company from selling and conveying any part of such real estate as they may hold or hereafter acquire, or which may hereafter be incorporated into stock and declared personal estate, and when it is sold and conveyed, from being considered real estate.

SEC. 7. *Be it further enacted*, That the president and directors shall have power to make such by-laws and regulations, not contrary to the laws of the United States or of this State, as they may deem expedient and proper for the government of the said corporation.

[Read three times and ratified in General Assembly
this 25th day of December, A. D., 1852.]

MANUFACTURING COMPANIES.

CHAPTER CXCV.

AN ACT TO INCORPORATE THE FRANKLINSVILLE MANUFACTURING COMPANY, IN THE COUNTY OF RANDOLPH.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That* Jno. B. Troy, Henry B. Elliott, Lorenzo Wood, Alfred H. Marsh, Robert Marsh, Alfred Brown, William McMasten, their associates, successors and assigns, be and they are hereby created a corporation and body politic, in law and in fact, by the name of the "Franklinsville Manufacturing Company," for the purpose of manufacturing wool, cotton, grain and other articles in the county of Randolph, and by that name may sue and be sued, plead and be impleaded in any court of record, contract and be contracted with, have perpetual succession and a common seal, acquire, possess, retain and sell real and personal estate, and also goods and merchandise, to enable them to carry on their business with advantage and profit, and shall so continue until the first day of January, one thousand nine hundred.

SEC. 2. *Be it further enacted, That* said corporation shall have power to make all necessary by-laws and regulations not inconsistent with the laws and constitution of the State, for its good government, and to appoint its officers and agents for the transaction of their business.

SEC. 3. *Be it further enacted,* That the capital stock of said corporation shall be twenty-five thousand dollars, in shares of one hundred dollars each, which may be increased to one hundred thousand dollars by a majority of the stockholders (in interest) at any time, or from time to time, in general meetings, according to such regulations as they may adopt.

SEC. 4. *Be it further enacted,* That the annual and semi-annual meetings of [of] the company may be held on days appointed by the company, and shall be held at Franklinsville, either in person or by proxy, at which the officers and agents of the company shall be appointed for one year, or until successors are chosen; and, in all general meetings of the company, the stockholders, in person or by proxy, shall be entitled to one vote for each share of stock owned by them respectively.

SEC. 5. *Be it further enacted,* That the operations of the company shall be under the direction of a president and three or more directors. All certificates of stock shall be signed by the president, except his own, which shall be signed by two of the directors; and all transfers of stock shall be made in a book, to be kept for that purpose.

[Read three times and ratified in General Assembly,
this 17th day of December, A. D., 1852.]

CHAPTER CXCV.

AN ACT TO AMEND "AN ACT TO INCORPORATE THE JOHNSTON LITTLE RIVER MANUFACTURING COMPANY, IN THE COUNTY OF JOHNSTON," PASSED AT THE SESSION OF THE GENERAL ASSEMBLY OF 1848 AND 1849. CHAPTER 169.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the seventh section of the above recited act, or so much thereof as relates to the qualification of stockholders voting for officers of said company be and the same is so amended as to authorize the stockholders of said company to vote hereafter for the officers of said company in proportion to the amount of stock respectively held by them, and that hereafter every stockholder in said company, in said elections, shall be entitled to one vote for each share of stock *bona fide* owned by him at the time of said election.

SEC. 2. *Be it further enacted,* That this act shall be in force and take effect from and after its ratification.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

MANUFACTURING, MINING AND LAND COMPANY.

CHAPTER CXCVI.

AN ACT TO REVIVE AND CONTINUE IN FORCE "AN ACT TO INCORPORATE THE NORTH CAROLINA MANUFACTURING, MINING AND LAND COMPANY," PASSED AT THE SESSION OF THE GENERAL ASSEMBLY FOR 1850.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the act entitled "An act to incorporate the North Carolina Manufacturing, Mining and Land Company," passed at the session of the General Assembly for 1850, be and the same is hereby revived, re-enacted and continued in force, and every section, clause and provision of said act, as though the same were herein contained and specially repeated.

SEC. 2. *Be it further enacted,* That the said act shall take effect and be in force from and after the ratification of this act.

[Read three times and ratified in General Assembly this 27th day of December, A. D., 1852.]

MINING COMPANIES.

CHAPTER CXCVII.

AN ACT TO INCORPORATE THE GUILFORD COUNTY MINING COMPANY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Robert W. Glenn, James Sloan, Andrew C. Caldwell, Washington Young, and Samuel Rankin, or a majority of them, their associates, successors, and assigns, be and they are hereby constituted a body corporate and politic, by the name and style of "The Guilford County Mining Company," and as such shall have succession, and may have and use a common seal, and change the same at pleasure, and shall be capable to sue and be sued, plead and be impleaded, in any court of law and equity, and may also have, use, exercise, and enjoy all the powers, privileges, and rights proper and necessary for the opening and working of mines of the company, and of buying and selling mines: and shall also have power to purchase and hold all such property, real, personal, and mixed, as they may require for the purposes aforesaid: Provided, That the said company shall at no time possess more than five thousand acres of land. And the said company shall have power, for the purposes aforesaid, to make such by-laws, rules, and regulations as may be necessary, and which shall be binding on the company: Provided, They be not repugnant to the laws and constitution of North Carolina or of the United States.*

SEC. 2. *Be it further enacted*, That the capital stock of the said company shall be divided into ten thousand shares of fifty dollars each, of which the lands, mines, and machinery, and other property of any of the said company shall constitute a part, at such prices as may be agreed on between the owners hereof on the one part, and those who may associate with them and constitute the aforesaid corporation by subscribing for stock payable in money, on the other.

SEC. 3. *Be it further enacted*, That the subscriptions to the said capital stock shall be made at such times and places and in such manner as the said Robert W. Glenn, James Sloan, Andrew C. Caldwell, Washington Young, and Samuel Rankin, or a majority of them, shall designate; and the stockholders shall be entitled, at all meetings of the stockholders, to one vote for each share so held, in person or by proxy; and the shares of said capital stock shall be assignable and transferable, as may be provided for by the by-laws of said company, and shall be considered as personal property.

SEC. 4. *Be it further enacted*, That the affairs of the said company shall be managed by a board of seven directors, who shall be chosen annually by the stockholders, which board shall choose one of their number to be president, and the president and directors so chosen shall serve for one year, and until others shall be elected, as shall be provided for by the by-laws of the corporation, and until the first election of directors shall be held, the said Robert W. Glenn, James Sloan, Andrew C. Caldwell, Washington Young and Samuel Rankin, or a majority of them, shall have full power and authority to exercise all the corporate powers of said company; and the president and direc-

tors, and their successors, or a majority of them, shall have full power and authority to manage the affairs of the said company under such powers as may be given them by the by-laws of the said company ; and in case of any vacancy occurring in the presidency or board of directors of said company, the remaining directors shall have power to fill such vacancy until the next general election thereafter.

SEC. 5. *Be it further enacted,* That this act and no part thereof shall be so construed as to give to the said company any banking privileges, or any right to issue notes "payable to bearer," for circulation as bank notes, or to exempt the bonds and other property of the corporation from taxation.

SEC. 6. *Be it further enacted,* That this act shall continue in force for the term of ninety-nine years, and shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 21st day of December, A. D., 1852.]

CHAPTER CXCVIII.

AN ACT TO INCORPORATE THE MANTEO MINING COMPANY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That* Hugh Birckhead, Jr., and Henry Stevenson and Ferdinand Braunhard, and such other persons as may be associated with them hereafter in manner herein provided, shall be and they are hereby incorporated and made a body politic and corporate by the name and style of "Manteo Mining Company," and by that name to have perpetual succession and a common seal, with power to acquire and hold, sell and transfer estate, real and personal, and to exercise and enjoy all the rights, powers and privileges usually exercised and enjoyed by bodies politic and corporate; and also the power to make and establish by-laws, rules and regulations for their own government as they might deem necessary and proper, the same not being repugnant to any law of the State or of the United States.

SEC. 2. *Be it further enacted, That* the capital stock of said company shall consist of not less than five hundred nor more than three thousand shares of one hundred dollars, each of which the lands and mines of the said Hugh Birckhead, Henry Stevenson and Ferdinand Braunhard shall constitute a part, at such price as may be agreed upon between the said Hugh Birckhead, Henry Stevenson and Ferdinand Braunhead, on the one part, and those who may asso-

ciate with them and constitute the aforesaid corporation by subscription for stock payable in money, on the other part: *Provided*, That said company shall not at any one time hold more than five thousand acres of land.

SEC. 3. *Be it further enacted*, That the subscriptions to said capital stock shall be made at such places and in such manner as shall be designated by the said Hugh Birkhead, Henry Stevenson and Ferdinand Brauuhard, and that the holders of one or more shares of said stock shall be a member of said corporation, and shall be entitled at all meetings of the stockholders to one vote for each share so held in person or by proxy, and the shares of said capital stock shall be assignable or transferable as may be provided for by the by-laws of said company and shall be considered as personal property.

SEC. 4. *Be it further enacted*, That the stockholders shall meet annually at such times and places as the president and directors shall deem most convenient for the stockholders for the purpose of electing five directors which directors shall appoint one of their own number president, who, with the other directors, shall appoint the other officers of said company, and rules, regulations and by-laws for the same.

SEC. 5. *Be it further enacted*, That the said corporation may make contracts or become bound by instrument, security, or agreement in writing, signed by the president, or by any person duly authorized by him, or by the president and directors, but the legal estate in the lands, tenements, hereditaments, claimed by said corporation, shall pass to the purchaser only by deed under the corporate seal.

SEC. 6. *Be it further enacted*, That any legal process against said corporation may be served on the president, and in case he be not in the State, or avoids service, then service of the same on any director or other officer of said company, shall be deemed sufficient.

SEC. 7. *Be it further enacted*, That this act shall go into operation immediately from and after the passage thereof.

[Read three times and ratified in General Assembly this 27th day of December, A. D., 1852.]

CHAPTER CXCIX.

AN ACT TO INCORPORATE THE NORTH CAROLINA MINING COMPANY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That J. F. Foster, N. L. Stith and A. B. Stith, and their associates, successors and assigns, are hereby created and constituted a body politic and corporate by the name, style and title of "The North Carolina Mining Company," for the purpose of exploring for copper, lead, iron and other metals or minerals, and for mining, vending, smelting and working the same, and by that name may sue and be sued, plead and be impleaded, appear, prosecute and defend in any courts of law and equity whatsoever in all suits and actions; may have a common seal and the same alter at pleasure, and may enjoy all the privileges incident to mining corporations, and may purchase, hold and convey real and personal estate to an amount not exceeding one million dollars.*

SEC. 2. *Be it further enacted, That the first meeting of said corporation may be called by the persons named in this act, or a majority of them, at such time and place as may be agreed upon by the persons named in this act, and at such meeting and all other meetings legally notified, said corporation may make, alter and repeal such by-laws and regulations for the management of the business of the said corporation as a majority of the stockholders may direct, not repugnant to the laws of this State and of the United States.*

SEC. 3. *Be it further enacted,* That the said corporation may divide their original stock into such numbers of shares and provide for the sale and transfer thereof in such manner and form as said corporation shall from time to time deem expedient, and whenever said company shall by purchase, lease or otherwise become possessed of any mine or mines, the directors of said company may make a separate and distinct interest of each mine, and divide said interest into such number of shares as they may deem expedient, not exceeding in amount five hundred thousand dollars for any one mine, and may buy and collect assessments, forfeit and sell delinquent shares, declare and pay individuals [dividends] on the shares in any of the said mines in such manner as the by-laws may direct.

SEC. 4. *Be it further enacted,* That it shall be the duty of the directors of said company to have regular books of record and transfer kept by the secretary or treasurer thereof, at all times open to the inspection of the stockholders.

SEC. 5. *Be it further enacted,* That this act shall take effect from and after its passage.

[Read three times and ratified in General Assembly.
this 17th day of December, A. D., 1852.]

CHAPTER CC.

AN ACT TO INCORPORATE THE PERSEVERANCE MINING COMPANY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That Henry Webster, James Bircckhead, Jr., and Thomas Whetan, Jr., and such other persons as may be associated with them hereafter in manner herein provided, shall be and they are hereby incorporated and made a body politic and corporate by the name and style of "Perseverance Mining Company," and by that name to have perpetual succession and a common seal, with power to acquire and hold, sell and transfer estate, real and personal, and to exercise and enjoy all the rights, powers, and privileges usually exercised and enjoyed by bodies politic and corporate, and also the power to make and establish by-laws, rules, and regulations for their own government as they might deem necessary and proper, the same not being repugnant to any law of the State or of the United States.

SEC. 2. *Be it further enacted,* That the capital stock of said company shall consist of not less than one thousand or more than three thousand shares of one hundred dollars each, of which the land and mines of the said Henry Webster, James Bircckhead, Jr., and Thomas Whetan, Jr., or either of them, shall constitute a part, at such price as may be agreed upon between the said Henry Webster, James Bircckhead, Jr., and Thomas Whetan, Jr., on the one part, and those

who may associate with them and constitute the afore-said corporation by subscription of stock payable in money, on the other part.

SEC. 3. *Be it further enacted*, That the subscription to said capital stock shall be made at such places and in such manner as shall be designated by the said Henry Webster, James Birkhead, Jr., and Thomas Whetan, Jr., and that the holders of one or more shares of said stock shall be a member of said corporation, and shall be entitled at all meetings of the stockholders to one vote for each share so held in person or by proxy; and the shares of said capital stock shall be assignable and transferable as may be provided for by the by-laws of said company, and shall be considered as personal property.

SEC. 4. *Be it further enacted*, That the stockholders shall meet annually at such time and place as the president and directors shall deem most convenient for the stockholders, for the purpose of electing five directors, which directors shall appoint one of their own number president, who, with the other directors, shall appoint the other officers of said company, and make rules, regulations, and by-laws for the same.

SEC. 5. *Be it further enacted*, That the said corporation may make contracts or become bound by instruments, security, or agreement in writing, signed by the president, or by any person duly authorized by him, or by the president and directors; but the legal estate in the lands, tenements, and hereditaments obtained by said corporation, shall pass to the purchaser only by deed under the corporate seal: *Provided*, Said company shall not own or hold in possession at one time more than five thousand acres.

SEC. 6. *Be it further enacted,* That any legal process against said corporation may be served on the president, and in case he be not in the State or avoids service, then service of the same on any director or other officer of said company shall be deemed sufficient.

SEC. 7. *Be it further enacted,* That this act shall go into operation immediately from and after the passage thereof.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

CHAPTER CCI.

AN ACT TO AMEND "AN ACT TO INCORPORATE THE WASHINGTON MINING COMPANY," PASSED IN THE YEAR 1838-'39, AND AMENDED IN THE YEAR 1850-'51.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the capital stock of the Washington Mining Company be and the same is hereby increased from two hundred and fifty thousand dollars to two hundred and seventy thousand dollars, and the nominal value of each share of the capital stock from twenty-five to twenty-seven dollars, and that the capital stock thus increased shall be subject to the same conditions as in section 3d of the charter of the company are prescribed with regard to the capital stock originally subscribed.

SEC. 2. *Be it further enacted,* That this act shall be in force only after a majority of stockholders in interest shall have signified their assent thereto in a general meeting of said stockholders, to be called for that purpose, which assent and acceptance of this amendment shall be entered on the books of said company and evidence by the corporate proceedings, certified under the seal of the corporation and filed in the office of the secretary of state.

[Read three times and ratified in General Assembly, this 23d day of December, A. D., 1852.]

· SAVINGS INSTITUTION.

CHAPTER CCII.

AN ACT TO AMEND AN ACT INCORPORATING THE
RALEIGH SAVINGS INSTITUTION.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the seventh section of said act shall be so amended as to authorize the payment of the profits of said institution to the stockholders according to the shares they may severally own of the capital stock therein.

[Read three times and ratified in General Assembly,
this 4th day of December, A. D., 1852.]

STEAMBOAT COMPANY.

CHAPTER CCHII.

AN ACT TO INCORPORATE THE BLADEN STEAMBOAT COMPANY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That George Cromartie, Duncan Cromartie, David Lewis, James Baker, James M. White, William S. Renaldi, James J. McKee, and H. H. Robinson, and such other persons as are now or may hereafter be associated with them, their successors and assigns, shall be and are hereby created, constituted, and declared a body corporate and politic, by the name of the "Bladen Steamboat Company," and by that name they and their successors may and shall have perpetual succession and a common seal, and shall be capable of suing and being sued, pleading and being impleaded, in all courts whatsoever; and may hold, possess, acquire, and enjoy real and personal estate.

SEC. 2. *Be it further enacted,* That said company may have a capital stock of five thousand dollars, with the privilege of increasing it to thirty thousand, if deemed necessary by a majority of the stockholders, in shares of one hundred dollars each.

SEC. 3. *Be it further enacted,* That the said company may build, buy, own, or employ one or more steamboats and necessary tow-boats for the convey-

ance of freight and passengers, or towing upon the Cape Fear River or its tributaries.

SEC. 4. *Be it further enacted*, That said company shall have power and authority to make rules and by-laws for its government; and to provide for the appointment of its officers, the mode of transfer and representation of stock, and all other matters necessary for the conduct of their business.

SEC. 5. *Be it further enacted*, That this act be in force from and after its ratification.

[Read three times and ratified in General Assembly
this 25th day of December, A. D., 1852.]

TOWNS.

CHAPTER CCIV.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE TOWN OF CHARLOTTE, IN THE COUNTY OF MECKLENBURG."

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That all fines imposed by the intendant of police of the town of Charlotte shall, when collected, be paid over to the treasurer of said town and be appropriated to all the objects to which the taxes collected in said town may be applied.

SEC. 2. *Be it further enacted,* That the commissioners of said town are hereby authorized to issue bonds, payable in the name of the town of Charlotte and under the name and seal of the intendant of said town, and all moneys received on said bonds shall be applied to the construction of a market house in said town and a male and female academies, and for the opening of streets and for grading and repairing the streets in said town: *Provided,* That the whole amount of debt contracted by said town under the authority of this act shall at no time exceed five thousand dollars.

SEC. 3. *Be it further enacted,* That all citizens residing in said town and all persons owning property in said town are hereby required to make out a list of their taxable property of every kind and description,

which list shall be returned before the intendant of said town on or before the 1st of April of each and every year on oath of the party, his agent or attorney, taken before the intendant or some justice of the peace of the county of Mecklenburg.

SEC. 4. *Be it further enacted*, That the commissioners of said town are hereby authorized to levy and collect the same tax on interest accruing on bonds, notes and other debts payable to citizens of said town, and under the same rules, regulations and restrictions as are now authorized and required by law in regard to the tax on interest for State purposes.

SEC. 5. *Be it further enacted*, That the corporate limits of said town shall embrace the land contained within the following boundaries, beginning at the present town boundary at the western termination of Trade street and running from said termination seventy-two poles in its present direction, and from its eastern termination forty poles and eighteen links; thence beginning at the northern terminus of Tryon street and extending in its present direction seventy-eight poles, eighty links, and extending the said Tryon street from its southern terminus ninety-one poles and seven links; thence running parallel lines with said Tryon and Trade streets from the points or distances above designated to where said lines will intersect each other.

SEC. 6. *Be it further enacted*, That when the said commissioners shall deem it expedient to open any new street or widen any street already opened and the owners of property affected by the street so opened or moved shall claim damages, it may be lawful for said commissioners to file their petition before

the county or superior court of said county praying said court to appoint five commissioners, who shall be disinterested freeholders resident in said town, who shall estimate the damages sustained by said improved [improvement,] and ascertain the sum which shall be paid to the owner of the property aforesaid, and report the same to the next term of said court under the [their] signatures and seals, which said report, on being confirmed by the court, shall be enrolled on the records of said court and registered in the register's office of the county of Mecklenburg, and said confirmation shall have the effect of a judgment of the court against said commissioners for the amount so found due, and execution thereon may issue in behalf of the owner of said property for the sum so found due, and shall pass the title to the commissioners in their corporate capacity of the land over which said street opened or moved as above provided may pay, [pass.]

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

CHAPTER CCV.

**AN ACT FOR THE BETTER REGULATION OF THE TOWN
OF CLINTON, IN THE COUNTY OF SAMPSON.**

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That James M Mosely, Isaac Boykin, Doct. Henry A. Bizzell, John R. Bea-man and Alfred Johnson be, and they are hereby appointed commissioners for the town of Clinton in the county of Sampson, and that they and their successors in office, chosen in the manner hereinafter provided for, be, and they are hereby created a corporation and body politic, under the name and title of "The commissioners for the Town of Clinton," and as such they are entitled to all the privileges and immunities of a body corporate to hold property, to contract and be contracted with, to sue and be sued, plead and be impleaded in their corporate name, to make such by-laws and regulations as they or a majority of them may deem necessary for the good order and government of said town, and for the improvement of streets, the laying out and opening of new ones, and for the preservation of health in said town, to lay and collect taxes for the necessary support of police and town government, and to transact any business in their corporate capacity, through the agency, of the officers of the town, to be appointed in manner hereinafter provided for, not inconsistent with the constitution of this State, or of the United States.*

SEC. 2. *Be it further enacted, That the corporate limits of Clinton in the county of Sampson, shall re-*

main as now established, that is to say, to extend a half a mile each way from the Court House in said town.

SEC. 3. *Be it further enacted*, That the said James M. Moseley, Isaac Boykin, Dr. H. A. Bizzell, J. R. Beaman and Alfred Johnson, commissioners appointed by the first section of this act, shall each of them take an oath of office, before some magistrate of said county, on or before the first day of March next, and shall continue to hold their offices as commissioners for the town of Clinton until an election for commissioners shall take place as hereinafter provided for, and until said commissioners so elected shall take an oath of office, as hereinafter set forth.

SEC. 4. *Be it further enacted*, That it shall be the duty of the sheriff of Sampson county, on the first Saturday in February in each and every year hereafter, to open polls of election in said town, for the purpose of electing five persons as commissioners of the town of Clinton, for the term of one year, and no person shall be eligible to serve as commissioner, who is not at the time a resident of said town, and shall have resided therein at least six months immediately preceding the day of election.

SEC. 5. *Be it further enacted*, That it shall be the duty of the said sheriff to advertise the time of holding said election of commissioners, at two or more public places in town, ten days previous thereto, and the said sheriff shall summon two freeholders, residents of said town, who, together with himself or deputy, shall hold the election at some public place in said town, to be designated by the commissioners for the time being, and shall keep the polls open from twelve o'clock A. M., until four o'clock P. M., and it shall be the duty

of the sheriff, or his deputy, to serve the persons so elected as commissioners with a notice of their election within five days thereafter, and on failure of any of the above duties enjoined on the sheriff, he shall, on conviction before any magistrate of the county of Sampson, forfeit and pay the sum of fifty dollars; and each freeholder refusing or neglecting to assist the sheriff or his deputy in holding such election, shall be subject to a penalty of five dollars, to be recovered in like manner; which penalties, when collected, shall be paid into the hands of the Treasurer of the town, to be applied as a majority of the commissioners may direct.

SEC. 6. *Be it further enacted*, That all free white men of the age of twenty-one years, who have been inhabitants of said town six months immediately preceding the day of election, and shall have paid a town tax, shall be entitled to vote for commissioners of said town.

SEC. 7. *Be it further enacted*, That all the persons so elected as commissioners, shall, within ten days after being notified by the sheriff or his deputy of their election, meet together and take before some magistrate of said county an oath faithfully and impartially to execute the office of commissioners of the town of Clinton, and any person of said town, who shall, after having been duly elected and notified, refuse to qualify and serve as commissioner, shall be subject to a penalty of twenty dollars, to be recovered before any justice of the peace of said county, and it shall be the special duty of the treasurer to warrant for and recover the same: *Provided*, No person shall be compelled to serve as commissioner two successive terms.

SEC. 8. *Be it further enacted*, That the commissioners of said town, at their first meeting after their appointment by the first section of this act, and at their first meeting after an election in each and every year hereafter, shall appoint one of their own body to act as Intendant of Police ; they shall also appoint one of their own body or some other fit person to be their clerk, to act as such during their pleasure ; and they shall also appoint a town constable and a treasurer, who shall hold their appointments for one year, or until others shall be appointed.

SEC. 9. *Be it further enacted*, That the intendant of police, when present, shall preside at all meetings of the commissioners, and shall be entitled to vote as commissioner, and, in case of a tie, to give a casting vote.

SEC. 10. *Be it further enacted*, That the intendant of police shall, within the last twenty working days in April in each and every year, receive the list of taxables in said town, he first giving ten days' notice of the time and place when he will attend for that purpose, and every person failing to give in, on oath, their list, shall pay double tax ; it shall be the duty of the intendant of police, on or before the first Monday in March in each and every year, to summon three freeholders of said town to appear before him within five days, which said freeholders, first being duly sworn to act impartially, shall assess the cash value of the several town lots and improvements, which assessment, after being duly subscribed by them, shall be deposited with the clerk of said corporation ; and any freeholder refusing to appear and assess the town lots, when so summoned, shall forfeit and pay the sum of five dollars, to be recovered and applied as other fines and penalties, as hereinbefore set forth.

SEC. 11. *Be it further enacted,* That it shall be the duty of the intendant of police to see that the laws of the State and the ordinances of said commissioners are obeyed and executed within said town. The said intendant shall have power to issue warrants, directed to the town constable or to the sheriff, or to any constable of said county, founded on any breach of any laws relating to said town or any of the ordinances of said commissioners, or brought for the recovery of any penalty or penalties given by said laws or ordinances, for the arrest of the person or persons complained against, to hear and determine said complaints on the return of the warrant, under the same rules and regulations as are by law provided for trials before single justices of the peace, to give judgments on said warrants, and to issue executions thereon, which judgments shall be final, unless appealed from in manner hereinafter provided for. The said intendant shall also be a peace officer, and shall have within the limits of said town all the powers of a justice of the peace and of a constable, for the preservation of the public peace, detection, arrest and punishment of offenders. The said intendant shall farther have summary jurisdiction to hear and determine all breaches of the peace occurring within the limits of said town, not above the grade of misdemeanors, and to punish all offenders, if free persons, by a fine not exceeding twenty dollars, or by imprisonment not exceeding twenty days; if slaves, by whipping, not exceeding thirty-nine lashes, and the owner or manager of said slaves shall receive reasonable notice of the time of the trial, and in case of conviction, shall be liable for the costs thereof: *Provided,* That it shall and may be lawful, in all cases, for the person or persons (or in case of slaves, their owners or managers,) against whom said intendant of police shall give judgment or pass sentence by virtue of the summary juris-

diction hereby given, or for breach of law or laws relating to said town or any ordinance of said commissioners, or for any penalty or penalties given by said law or ordinances, to appeal from said judgment or sentence to the superior court of law for the county of Sampson, first entering into recognizance, with good security, for the appearance of said appellant or appellants, before the judge of the said superior court, at the next term thereof, and for his, her or their performing and abiding the judgment of said superior court; and the person or persons praying said appeal, shall be allowed ten days to obtain said security: *Provided*, That execution may nevertheless issue in said judgment or sentence forthwith; and nothing herein contained shall be so construed as to stay the same. The said intendant of police is hereby further vested with the same jurisdiction and power over all other offences committed by slaves as is now by law given to a justice or justices of the peace out of court, under the same rules, regulations and restrictions as are provided in those cases; and the said intendant of police shall keep a faithful minute of all process issued by or returned before him, and of his judgment or sentence, and all the proceedings thereon, in a bound book, and shall deliver the same to his successor. In case of an appeal duly taken from any judgment or sentence of said intendant, he shall return the original and all other process into said court, together with a copy of his minutes of his judgment or sentence, and of all the proceedings therein, to the term of the court to which said appeal shall be taken, next ensuing the taking of said appeal, on the first day of the term.

SEC. 12. *Be it further enacted*, That the intendant of police shall be allowed a fee of twenty cents for each judgment granted by him, and twenty cents or each execution, and ten cents for each subpœna.

SEC. 13. *Be it further enacted,* That the town constable, before entering upon the discharge of the duties of his office, shall give a bond, made payable to the commissioners of said town and their successors in office, in such sum and with such securities as said commissioners for the time being, or a majority of them, shall approve, conditioned for the faithful performance of his duties during his continuance in office, and also to use due diligence in collecting and paying over all such sums of moneys as he may or ought to collect, and also to execute all precepts to him directed by the authorities of said town, or any justice of the peace having jurisdiction under this act, and said constable shall have the same compensation for his services as constables are now entitled to receive for similar services; and it shall be the duty of the treasurer, upon failure of said constable to account for and pay over all moneys which may or ought to be in his hands, belonging to said corporation, upon giving ten days' notice to said constable, any or all of his sureties, to move the county court of Sampson for judgment against him and his sureties for such sum or sums of money as appear to be due said corporation; whereupon said court shall grant and award execution for the same.

SEC. 14. *Be it further enacted,* That the town clerk, before entering upon the duties of his office shall take an oath faithfully to discharge the duties thereof. It shall be the duty of the said town clerk to record the proceedings of the commissioners, take care of the journals, books and papers, and to post up, at some public place to be designated by said commissioners, a copy of all such rules, regulations, and ordinances as may be made by said commissioners, and no rule, regulation, or ordinance of said commis-

sioners, imposing fines or penalties, shall be in force until the same shall have been published as aforesaid for ten days: *Provided*, Nothing herein shall be so construed as to prevent the said commissioners from adopting ordinances to take immediate effect relating to contagious diseases and nuisances.

SEC. 15. *Be it further enacted*, That the town clerk shall, upon the receipt of the tax list from the intendant of police, and the assessment from the freeholders, record the same in the town book, and furnish the town constable a true copy from said list, extending the amount of each person's tax, on or before the first day of April in each and every year; and on failure of the clerk aforesaid to perform any of the duties in this act required of him, he shall forfeit and pay the sum of ten dollars, to be recovered and applied as hereinbefore mentioned for other fines and penalties; and the commissioners, for his services, shall allow such compensation as they may deem just and adequate.

SEC. 16. *Be it further enacted*, That the town constable, immediately after the receipt of the said tax list, shall proceed to collect the same, by distress or otherwise, under the same rules and regulations as are prescribed for in collecting county and State taxes, and shall, on or before the fifteenth day of October in each and every year, pay over the said taxes to the treasurer of said town, deducting therefrom a commission of five per cent. and such insolvent polls as he may, on oath, return a list of; and on failure thereof, the said treasurer shall, upon giving ten days' notice in writing to the said constable and any or all of his sureties, move the court of pleas and quarter sessions of Sampson county for judgment against said

constable and his sureties; whereupon the said court shall proceed to render judgment, with twelve per cent. damage by way of interest. from said fifteenth of October; and a certified copy, by the clerk, of the tax list from the records of said corporation, shall be admitted as *prima facie* evidence against such constable and his sureties.

SEC. 17. *Be it further enacted*, That the said town constable, before he enters upon the duties of collecting the taxes as aforesaid, shall enter into bond, in such sum and with such sureties, made payable to the commissioners and their successors in office, as they may deem necessary and proper, for the faithful performance of the duties required.

SEC. 18. *Be it further enacted*, That from and after the next May term of Sampson county court, no person shall keep an ordinary or store for retailing spirituous liquors, or retail the same by small measure in the town of Clinton, until he or she shall have first applied to the commissioners of said town and have obtained from them a certificate of their recommendation, or from a majority of them, for that purpose, which recommendation shall be valid for one year and no longer; and any person who shall keep an ordinary, or who shall retail spirituous liquors by the small measure in said town, after the May court aforesaid, without having obtained license and recommendation as aforesaid, shall forfeit and pay the sum of twenty dollars, to be recovered in any action of debt, before the intendant of police of said town, or any justice of the peace of the county of Sampson; and it shall be the duty of the treasurer, in the name of the commissioners, within one year after the offence is committed, to sue for the same. Every retailer of spirituous liquors

by the small measure in the town of Clinton, shall pay an annual tax of five dollars to the treasurer, before he receives his certificate of recommendation from the clerk.

SEC. 19. *Be it further enacted,* That the treasurer of said town, before he enters upon the execution of the duties of his office, shall take an oath before some magistrate to discharge his duties faithfully, to receive all moneys due said corporation which shall be paid to him, and keep them until otherwise disposed of as a majority of the commissioners may direct; the treasurer shall also, before entering upon the discharge of the duties of his office, give a bond, made payable to the commissioners of said town for the time being, and their successors in office, in such sum and with such sureties as the said commissioners, or a majority of them, shall approve, conditioned for the faithful accounting for and paying over all sums of money coming into his hands as treasurer; and he shall receive as a compensation for his services a commission, to be fixed by the commissioners for the time being, not exceeding five per cent. of the amount received by him as treasurer.

SEC. 20. *Be it further enacted,* That within twenty days after the annual election of commissioners for said town, it shall be the duty of the former treasurer to settle with and pay over to his successor in office all such sums of money belonging to said corporation as he may or ought then to have in possession; and upon failure thereof, he shall forfeit and pay the sum of fifty dollars, to be recovered by action of debt before any justice of the peace for the county of Sampson; and the treasurer for the time being may, upon giving ten days' notice, move the county court for

judgment against the former treasurer, and said court shall render judgment against the former treasurer and his sureties for the amount of monies which may or ought to be in his hands, with twelve per cent. damage by way of interest from the expiration of the time for which he was elected, and shall grant and award execution for the same.

SEC. 21. *Be it further enacted*, That the commissioners of the said town of Clinton are hereby authorized to lay a tax for the necessary support of police and town government, not exceeding fifty cents on one hundred dollars valuation of the real estate in said town, and not exceeding one dollar and fifty cents on the poll, and on all billiard tables and public alleys for rolling at pins, whether the same has ten or a greater or less number of pins, a tax not exceeding ten dollars on each; on shuffle boards, five dollars each; and to lay a tax on all matters or things which now are or hereafter may be subject to taxation by the State.

SEC. 22. *Be it further enacted*, That the commissioners of said town shall have full and ample power to force a compliance with and observance of all such rules, regulations and ordinances as they, or a majority of them, may deem necessary from time to time, for the government of said town, by imposing fines and penalties on those who shall refuse or neglect to conform to such rules, regulations and ordinances, to be recovered by warrant, under the hand and seal of the intendant of police, or some justice of the peace for the county of Sampson, directed to the town constable, sheriff or constable of the county, to bring such delinquents or offenders before the intendant or some justice of the peace for said county, and, on conviction, the intendant or justice of the peace is hereby required

to give judgment and award execution, which said officer is hereby required to execute by distress and sale of the offender's goods and chattels; which fine, when levied and collected, shall be paid into the hands of the treasurer of the town, and by him to be accounted for.

SEC. 23. *Be it further enacted*, That in case of a vacancy among said commissioners, or in any of the officers appointed by them, the said commissioners, or the remaining ones, shall appoint some fit person or persons to fill such vacancy or vacancies, who shall possess the qualification, and shall have the same powers and be subject to the same penalties as those who were elected at the annual election or appointed by said commissioners as hereinbefore provided for.

SEC. 24. *Be it further enacted*, That all laws and clauses of laws conflicting with or coming within the meaning and purview of this act, be and the same are hereby repealed.

SEC. 25. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 22d day of December, A. D., 1852.]

CHAPTER CCVI.

**AN ACT FOR THE IMPROVEMENT OF ELIZABETH CITY,
IN THE COUNTY OF PASQUOTANK.**

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That a mayor and five commissioners shall be elected for the town of Elizabeth City, in the county of Pasquotank, annually on the last Saturday in December, by the citizens of the place qualified to vote for members of the House of Commons and not in arrear for town taxes. The election shall be held under the same rules and regulations as elections for the House of Commons, by the sheriff and two citizens, who are freeholders in the town, summoned by him as inspectors of polls. The said mayor and commissioners shall hold their office until their successors are elected and qualified. For every neglect to hold said election, as herein directed, the sheriff shall forfeit to the corporation the sum of five hundred dollars, to be recovered within two years from such neglect by motion in the county court of said county.

SEC. 2. *Be it further enacted,* That the sheriff shall furnish to the persons so elected a certificate of their election within five days therefrom and within ten days from the receipt of the certificate. The mayor and commissioners elect shall take and subscribe an oath or affirmation before some justice of the peace for said county to support the constitution of the United States and the constitution of North Carolina, and to perform faithfully the duties of their office,

which oath or affirmation shall be entered upon the minutes of the corporation, subscribed as aforesaid and altered by said justice, and none of said officers shall enter upon the discharge of the duties of his office until he has taken and subscribed the oath or affirmation as aforesaid; and every citizen of said town qualified as hereinafter directed, under the age of fifty years, elected a mayor or commissioner as aforesaid, shall be compelled to serve as such under a penalty of twenty dollars, to be recovered by warrant in the name of the corporation of Elizabeth City, before any justice of the peace in said county.

SEC. 3. *Be it further enacted,* That should the mayor and all the commissioners elect be found ineligible or refuse to qualify or vacate their offices after qualification, that the said sheriff, under the same regulations and penalties as aforesaid, shall forthwith advertise for the space of five days and hold another election; but should the mayor or any of the commissioners qualify and retain their office, it shall be their duty to fill all vacancies for mayor or commissioner by the appointment of some eligible person within ten days from the time said vacancies occur, and persons so appointed shall be subject to the same penalty for refusing to serve as though they had been duly elected as herein prescribed.

SEC. 4. *Be it further enacted,* That no person shall be eligible to the office of mayor, who does not own real estate in fee in said town of the assessed value of four hundred dollars; and no person shall be eligible to the office of commissioner who does not own in fee in said town real estate of the assessed value of two hundred dollars; and no person shall be eligible to the office of mayor or commissioner who is

not a free white male of the age of twenty one years, and who has not been a citizen of said town twelve months immediately preceding the day of election; and one commissioner shall be elected from and reside in each of the five wards of said town as now laid off, or as may be hereafter laid off from time to time by the people in authority,

SEC. 5. *Be it further enacted*, That the mayor and commissioners elected or appointed as aforesaid, are hereby constituted a body corporate under the name and title of the "Corporation of Elizabeth City;" by such name and title to have succession and a common seal, to sue and be sued, plead and be impleaded, and to acquire and pass title to real and personal estate for the benefit of said town.

SEC. 6. *Be it further enacted*, That the mayor shall preside at all meetings of the corporation when present, and have a casting vote in all cases of a tie. He shall have, within the limits of the town, all the civil and criminal jurisdiction of a single justice of the peace out of court, together with power to issue warrants for, and try all offences against the laws and ordinances of the said town, and to give judgment and issue execution, and shall keep a full record in a well bound book, kept for the purpose, of all the cases, both civil and criminal, tried before him. Appeals shall be allowed from his decisions, under the same rules and regulations as appeals are now allowed from justices of the peace. He shall receive for his services, from the town treasurer, an amount equal to the whole amount of fees taxed for the benefit of the corporation in all the cases tried before him during the year of his office term.

SEC. 7. *Be it further enacted*, That a meeting of the corporation shall be held on the first Monday every month, and at the call of the mayor, at some designated place in the town, and a majority of the commissioners shall constitute a quorum, who, in the absence of the mayor, shall choose one of their number to preside. They shall appoint a treasurer, a clerk, and a constable of the corporation; have power to appropriate by ordinance the funds of the corporation, to abate all nuisances, and remove such buildings as endanger the safety of the vicinity, within the limits of the town, to provide for the health of the town by quarantine or otherwise, and to pass any laws or ordinances for the government of the town, not inconsistent with the laws of the State or United States.

SEC. 8. *Be it further enacted*, That the constable of the corporation shall take an oath before the mayor to support the constitution of the United States and the constitution of North Carolina, and for the faithful performance of his official duties. He shall give a bond to be received and kept by the corporation in the sum of \$5,000 payable to the State of North Carolina to collect and account for the public taxes of the town, and to discharge faithfully all the other duties of the constable of the corporation of Elizabeth City. He shall have within the limits of the town, all the powers and duties of other constables for the county of Pasquotank, and be subject to the same liabilities for neglect of duty. He shall collect all fines, and forfeitures imposed by the town laws and ordinances, and shall collect the public taxes of the town, under the same rules and regulations as Sheriffs collect the other public taxes, and shall pay the same to the treasurer within six months after receiving the tax list, and may retain six per cent on the amount so collected and paid

over to the treasurer. And he shall be liable to an action on his bond for all breaches thereof, as other constables are now liable by law, by any one suing in the name of the State, and shall at all times be subject to the directions of the mayor in enforcing and executing laws and ordinances of the corporation. He shall receive for his services in civil cases the regular fees of other constables of the county ; and for executing State warrants one dollar each, and for executing precepts for breach of town laws and ordinances, the same fees as in other civil cases.

SEC. 9. *Be it further enacted*, That the clerk of the corporation shall give a bond payable to the corporation of Elizabeth City, in the sum of one thousand dollars, conditioned for the faithful performance of all the duties of his office. He shall keep correctly the minutes of the corporation : take a list of taxable property in the town, and make out and furnish the constable the tax list, at such times and in such manner as directed by the mayor and commissioners, and shall post at the court house door in said town and spread upon the minutes a copy of the tax list as furnished to the constable, and perform such other and further duties as may be required by the corporation. He shall receive a salary of fifty dollars and such further compensation for his services as may be from time to time allowed.

SEC. 10. *Be it further enacted*, That the mayor and commissioners shall have power to lay a special tax for a watch at night in said town, not to exceed ten cents on the polls, ten cents on every \$100 capital invested in trade, and ten cents on every one hundred dollars valuation of real estate, and to take from the general fund such amounts as may be requisite to keep

up an efficient watch at night, and they shall further have power to appoint a director of patrol, with authority to organize and order out such number of the white male citizens of said town between the age of twenty-one and forty years as he may think proper; and any one refusing to serve when ordered out, shall forfeit the sum of two dollars, to be recovered by warrant before the mayor. The said patrol and watch shall have power to arrest and bring before the mayor all colored persons out of place, and all disturbers of the public peace within the limits of the town; and the said patrol shall have the same power within the captain's district in which the town is situated as they have within the limits of the town.

SEC. 11. *Be it further enacted,* That the mayor and commissioners shall authorize the organization of one or more fire companies in the town, and shall limit the number of members of said companies, and shall have power to appropriate yearly, to the keeping in order of engines and other purposes connected with said companies, a sum not exceeding one hundred dollars. The members of all the fire companies shall be exempt from the poll tax of the town.

SEC. 12. *Be it further enacted,* That the treasurer of the corporation shall give a bond in the sum of three thousand dollars, payable to the corporation of Elizabeth City, conditioned to keep safely and pay out by ordinance of the mayor and commissioners, the funds of the town and faithfully to settle with his successor within thirty days after his qualification and to do and perform all the other duties of his office. He shall receive the sum of forty dollars for his services and such further compensation as may be from time to time allowed him.

SEC. 13. *Be it further enacted*, That the mayor and commissioners shall have power to lay a town tax not to exceed two dollars on each poll and fifty cents on each one hundred dollars valuation of real estate and to tax all exhibitions for money, to lay a tax of twenty dollars on each billiard table; five dollars on each livery stable, and one dollar on each dog; and all fines and forfeitures shall be paid into the town treasury.

SEC. 14. *Be it further enacted*, That the mayor and commissioners shall have power to lay out new streets in said town, by summoning twelve freeholders of the town to assess the value of the real estate condemned for the purpose, and the damage done to the owners thereof, which amount shall in all cases be paid to the owners before said property shall be taken for the street; and from the assessment of the freeholders either party may appeal to the county or superior court; and the mayor and commissioners shall be subject to indictment for neglect to keep the streets of the town in repair.

SEC. 15. *Be it further enacted*, That the corporate limits of Elizabeth City, in the county of Pasquotank, shall be extended as follows, to wit: Beginning at the mouth of Poindexter's Creek, and in the centre of the same, and running up said Creek in a westwardly direction along its channel to the north branch, thence along said branch its various courses to the public road leading from Elizabeth City to Nobb's Creek near a bridge and cypress; thence N. 67 W, 21 chains and five links, thence S. 8 deg. W. 46 chains to Run Quarter Road, thence S. 12 deg. 3.28 chains to what is called the Old Road leading from Elizabeth City to Edenton includ-

ing the whole width of said road and the ditches on either side, thence along said road N. 40 min. E. 91 1-2 chains to a sign post at the intersection of this road with the one which is a continuation of Road street in said town, thence due east to a pine on the west side of Charles Creek, thence along the edge of said creek its various courses to its mouth at Pasquotank river, thence along the channel of said river its various courses (so as to include the wharves) to the first station.

SEC. 16. *Be it further enacted*, That all persons who now are or hereafter may be residing within the limits described in the preceding section, shall be entitled to all the privileges and immunities, and be subject to all the rules and regulations, which those who now are or hereafter may be residents of Elizabeth City within its present corporate limits.

SEC. 17. *Be it further enacted*, That all orders for money appropriated shall be attested by the clerk, under the seal of the corporation, and drawn upon the treasurer in the following form: "By order of the corporation of Elizabeth City, the treasurer will pay to A. B or order ——— dollars," &c. All which orders shall be numbered and recorded in a book kept by the clerk for that purpose, and shall specify for what these were granted.

SEC. 18. *Be it further enacted*, That the county court of Pasquotank county shall not grant a license to any person to sell spirituous liquors within Elizabeth City, unless such person produce a certificate from the clerk of the corporation, that such person so applying made application at a regular meeting of the

mayor and commissioners for leave to retail spirituous liquors in the town of Elizabeth City, and that the mayor and commissioners granted his or her petition.

SEC. 19. *Be it further enacted,* That the mayor and commissioners shall not have power to exceed, in their appropriations, the funds belonging to the treasury, except by a unanimous vote.

SEC. 20. *Be it further enacted,* That in every case, either criminal or civil, tried before the mayor, there shall be taxed for his services, to be collected by the constable and paid into the treasury of the town, the following fees, to wit: For issuing any precept, 25 cents, for final judgment or dismissal 25 cents, for docketing and filing records \$1. for continuance 25 cents, for transcript and appeal \$1.25.

SEC. 21. *Be it further enacted,* That all laws and ordinances of the town shall be published at least ten days before they go into operation; they shall be entered in well bound books kept for the purpose, with a full index, and shall be subject to the inspection of the citizens at all times.

SEC. 22. *Be it further enacted,* That all laws and clauses of laws heretofore enacted for the government of the town of Elizabeth City, in the county of Pasquotank, be and the same are hereby repealed.

SEC. 23. *Be it further enacted,* That this act shall be in force from and after its passage.

SEC. 24. *Be it further enacted,* That the mayor and commissioners shall assess the real estate in said town in the month of February, 1853, and re-assess it

every five years thereafter, and they shall annually assess all improvements made since the preceding assessment and not assessed therein.

[Read three times and ratified in General Assembly this 25th day of December, A. D., 1852.]

CHAPTER CCVII.

AN ACT TO ENLARGE THE POWERS OF THE MAGISTRATE OF POLICE AND COMMISSIONERS OF FAYETTEVILLE.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same.* That the magistrate of police and commissioners of Fayetteville are hereby authorized to subscribe for not exceeding one thousand shares of the stock of the Western Railroad Company, to be held by them for the use and benefit of Fayetteville.

SEC. 2. *Be it further enacted,* That to enable them to meet the payment of such subscription, they are hereby authorized and empowered from time to time, and at such times as they may deem fit, to make, execute and deliver their bonds for the payment of such sums of money as they may think proper, in the aggregate not exceeding one hundred thousand dollars, payable to the lender thereof and to his order, or to

bearer, bearing interest, payable either semi-annually, or annually, and at such places as may be agreed upon, which said bonds shall be signed by the magistrate of police and shall be sealed with their corporate seal.

SEC. 3. *Be it further enacted*, That the said bonds shall be payable not less than ten nor more than twenty-five years from the time of their respective dates, and shall bear interest not exceeding *six per centum per annum*; but the holders of any bond issued by virtue of this act shall not be required to include the interest accruing on the same in their lists of taxable property: and such bonds, and the interest accruing or received thereon, shall not be subject to any tax whatsoever.

SEC. 4. *Be it further enacted*, That to provide for the payment of the bonds issued by virtue of this act and of the interest accruing on the same, it shall be lawful for the magistrate of police and commissioners of Fayetteville and they are hereby authorized and required, from year to year and every year, to assess, levy and collect such taxes on real and personal estate, and other subjects, within the limits of their town as shall be necessary to pay and discharge the same, and to raise a sinking fund for the ultimate payment of the debt, and to invest from time to time in profitable stock, the surplus of their taxes to meet the maturity of the bonds: and are authorized to collect the taxes so levied, annually or semi-annually, by an officer appointed for that purpose, and require bond of him in such amount as they may think proper.

SEC. 5. *Be it further enacted*, That the magistrate of police and commissioners aforesaid may make all necessary rules and regulations as shall be necessary to carry into effect the provisions of this act.

SEC. 6. *Be it further enacted,* That before the said subscription shall be made, the sense of the people of the town shall be taken thereon, and for that purpose it shall be the duty of the magistrate of police to cause polls to be opened at the town hall, first giving ten days' notice thereof in every ward of the town, and those persons qualified to vote for town officers shall vote there and then by ballot, and, all who are in favor of such subscription, shall deposit their votes written thereon "Subscription," and those opposed shall vote "No subscription," and unless a majority of them voting shall be in favor of the subscription, the same shall not be made; and the election shall be held by two inspectors, freehold inhabitants of the said town, and by the town constable, as other elections are held, the said inspectors to be appointed by the magistrate of police.

SEC. 7. *Be it further enacted,* That the magistrate of police and commissioners of Fayetteville be and they are hereby authorized to purchase the interest of the president and directors of the Fayetteville Water Works in and to their water works, within said town and its vicinity, and to take a deed of conveyance of the same and of the land thereto, or else to take necessary steps to procure a supply of pure and wholesome water for the use of the people of said town, and to purchase, have and hold such lands and tenements, whether within or without the limits of the corporation as may be necessary to carry the intentions of this act into effect.

SEC. 8. *Be it further enacted,* That to enable the said magistrate of police and commissioners to effect this object they are hereby authorized, in addition to the amount of debt which they are now by

law permitted to owe, to borrow such necessary sums from time to time as they may think proper, and to lay such taxes, in addition to what they are now by law authorized to raise, as may be necessary to repay the sum borrowed, with the accruing interest.

Sec. 9. *Be it further enacted.* That the said magistrate of police and commissioners may and shall have authority to lay such taxes for the use of the water in any or all the wards of the town, and to provide by penalties for the payment of the taxes so laid, and for any violation or wilful injury of their water works as they may deem proper.

Sec. 10. *Be it further enacted.* That the utmost amount of debt which the magistrate of police and commissioners of Fayetteville shall owe at any one time shall not exceed the sum of twelve thousand dollars, exclusive of interest, always excepting, however, the amount proposed to be subscribed to the Western Railroad Company provided for in the other sections of this act.

Sec. 11. *Be it further enacted.* That hereafter no person shall be entitled to vote in any election of magistrate of police and commissioners of Fayetteville, unless he shall have paid all the town taxes which may have been due from him for three years immediately preceding such election.

Sec. 12. *Be it further enacted.* That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, the 25th day of December, A. D., 1852.]

CHAPTER CCVIII.

AN ACT TO INCORPORATE THE TOWN OF KENANSVILLE, IN THE COUNTY OF DUPLIN.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same.* That it shall be the duty of the sheriff of Duplin county, on the first Saturday of April of each and every year, after giving ten days' notice previous to the day of election, to open polls at the court-house in the town of Kenansville, in said county, for the election of five commissioners, who shall continue in office for the term of one year thereafter, or until others are appointed.

SEC. 2. *Be it further enacted,* That any citizen of said town of Kenansville, who has resided therein for six months immediately preceding the election, and who, at the time of the election, owns and is possessed of a freehold in said town of the value of fifty dollars, shall be eligible as commissioner, and every inhabitant of the said town, who has resided therein six months immediately preceding the day of election, and who is qualified to vote for a member of the House of Commons, and also every free white male citizen twenty-one years of age, who has resided any where in said county for six months immediately preceding the day of election, and who owns a freehold of the value of fifty dollars in said town, shall be entitled to vote in said election for commissioners, and such election shall be conducted and regulated in the same manner as elections of members of the General Assembly, and in the event of a tie, the sheriff or his deputy shall

give the casting vote; and the sheriff, for his service in holding said election shall receive from the board of commissioners the sum of one dollar.

SEC. 3. *Be it further enacted,* That the said commissioners, within five days after their election, and before entering upon the duties of their office, shall take an oath before some justice of the peace for said county, faithfully and impartially to perform said duties, and thereupon they shall be constituted a body politic and corporate under the name and style of "The Commissioners of the town of Kenansville," and as such may sue and be sued, plead and be impleaded, acquire and transfer property, have and use a common seal and perpetual succession.

SEC. 4. *Be it further enacted,* That the said commissioners, or a majority of them, shall have power and authority to appoint a magistrate of police, a town constable and treasurer, and shall have power to lay and collect a tax on the inhabitants and property of said town not exceeding sixty cents on the poll and thirty cents on every hundred dollars worth of town property, to be ascertained by the assessment thereof made by law for taxation, as shown by the tax lists returned to the county court of said county, and a tax on each store, grocery, tavern, lawyer, physician not exceeding two dollars; on every dog exceeding two owned by any one person, twenty cents; on exhibitions of natural or artificial curiosities, five dollars; on all sleight of hand performers, or bands of singers, who exhibit for pay, three dollars, which said taxes, when collected, shall be appropriated to repairing the streets and side walks, and to such other purposes as the commissioners, or a majority of them, shall direct.

SEC. 5. *Be it further enacted*, That said commissioners be authorized and empowered to establish patrols for said town and to enact and adopt all such by-laws, rules and regulations as they, or a majority of them, may deem necessary for the health, good order, improvement and proper government of said town: *Provided*, That nothing in this act contained shall authorize the said commissioners to prevent the citizens of Dublin county from exposing to sale on the public square any goods, wares or merchandize or commodity of any kind now authorized by law to be sold free of any town tax, and provided such by-laws, rules and regulations be not inconsistent with the constitution and laws of this State or of the United States.

SEC. 6. *Be it further enacted*, That the town constable aforesaid shall be the collector of the town tax, under the direction of the said commissioners and for that purpose shall have all the powers and immunities of sheriffs in the collection of the public revenue and for his services shall receive the same pay that sheriffs now receive.

SEC. 7. *Be it further enacted*, That the town constable shall be required to enter into bond with good and sufficient security in the sum of one thousand dollars, before entering upon the duties of his office, payable to the State of North Carolina, for the faithful performance of the duties of his office and paying over to the town treasurer all monies collected by virtue of his office, and for a breach of said bond shall be liable as other constables are now liable.

SEC. 8. *Be it further enacted*, That any commissioner elected under the provisions of this act, (who is eligible,) who refuses to serve as commissioner, shall

forfeit and pay the sum of twenty dollars to be sued for and recovered by and in the name of the sheriff of said county before any single justice of the peace by warrant, and the amount when collected shall be paid over to the town treasurer to be disbursed by him under the order of the commissioners for the benefit of the streets of the said town; *Provided, however,* That no person shall be compelled to act as commissioner any two years in succession.

SEC. 9. *Be it further enacted,* That upon the death, resignation, removal or refusal to act of any of the commissioners, the remainder, or a majority of the remainder, shall have power and authority to appoint his or their successor or successors who shall have the same powers granted to his or their predecessors, and shall in like manner be compelled to serve.

SEC. 10. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852]

CHAPTER CCIX.

AN ACT TO PROVIDE FOR THE BETTER GOVERNMENT OF THE TOWN OF LINCOLNTON, AND TO AMEND THE EXISTING CORPORATE LAWS OF SAID TOWN.

Sec. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same.* That the government of the town of Lincolnton shall be vested in an intendant and eight commissioners, who shall be annually chosen on the first Saturday in March, at the court house in Lincolnton, and the commissioners who last served as such, or any two of them, shall give at least ten days notice by advertisement at the court house door in Lincolnton; and it shall be the duty of the said commissioners to open an election at said court house at ten o'clock on said day, and to keep it open until three o'clock p. m. and receive the votes; and the person having the highest number of votes shall be intendant, and the eight persons having the highest number of votes shall be commissioners; and the said persons holding said election as commissioners aforesaid, shall declare the result of the election.

Sec. 2. *Be it further enacted,* That B. S. Johnson, intendant, and William Lander, D. W. Schenk, J. A. Ramsour, and T. T. Slade, commissioners for the town of Lincolnton, shall continue to hold their offices as intendant and commissioners for said term until a new election shall take place as hereinafter provided for.

SEC. 3. *Be it further enacted,* That hereafter the board of commissioners for the said town of Lincolnton shall be composed of intendant of police and eight commissioners. The intendant of police shall be elected annually and serve until another is elected and qualified. He shall be *ex officio* President of the board of commissioners, and have one vote therein. The eight commissioners, two of whom shall reside and continue to reside whilst in office in each of the great squares as now known of said town, shall be elected annually and serve until their successors are elected and qualified.

SEC. 4. *Be it further enacted.* That no person shall be elected intendant of police or commissioner for the town of Lincolnton except a white male citizen of the full age of twenty-one years who shall have resided in said town six months next preceding the day of election, and who shall possess and continue to possess a freehold in said town assessed for taxation at a sum not less than five hundred dollars, and no coroner, sheriff or constable, or any deputy of either of those officers shall be eligible as intendant of police.

SEC. 5. *Be it further enacted,* That every white male inhabitant of the town of Lincolnton, of the age of twenty-one years, who shall have resided in said town six months next preceding the day of election, and shall have paid a town tax, and also all white male citizens of the State of North Carolina, of full age, who shall possess in said town real estate assessed for taxation at a sum not less than five hundred dollars, shall be entitled to vote for intendant of police and commissioners of said town.

Sec. 6. *Be it further enacted*, That if a vacancy shall at any time happen in the office of intendant of police or commissioner, by the refusal of the elect to qualify, by resignation, death or otherwise, it shall be the duty of the said board of commissioners within one month after the happening of such vacancy, to elect some suitable person to fill the same; and any such intendant of police or commissioner so elected, shall have the same powers, privileges and emoluments as if chosen by the people.

Sec. 7. *Be it further enacted*, That on or before the Saturday next after their election, the intendant of police and commissioners shall meet at the court house or some other place agreed upon by them, and shall there qualify by taking each an oath to support the constitution and laws of the State, and to discharge the duties imposed upon them by law with fidelity and integrity, and to the best of their ability, which oath shall be administered to the intendant of police by some justice of the peace for said county, or by the former intendant of police, and to the commissioners by the intendant of police, or in case of a neglect or refusal by him, then by the former intendant of police, or some justice of the peace for said county; and every person so elected intendant of police, or commissioner as aforesaid, neglecting or refusing to qualify and serve, shall forfeit and pay the sum of twenty dollars for the use of said town, to be recovered by action of debt in the name of the town council of Lincolnton before the intendant or any justice of the peace of said county, and said intendant or any justice of the peace shall have power to issue a warrant or warrants for the same: *Provided*, Suit be brought within six months next after the cause of action occurred.

SEC. 8. *Be it further enacted,* That it shall be the duty of the intendant of police to see that the laws of the State and ordinances of said commissioners are obeyed and executed within said town. He shall have power to issue warrants to the town constable, whose appointment is hereinafter provided for, or to the sheriff or any constable of said county, founded on a complaint of a breach of any laws relating to said town or any of the ordinances of said commissioners, or brought for the recovery of any penalty or penalties given by said laws or ordinances for the arrest of the person or persons complained against; to hear and determine said complaints, on the return of the warrants, under the same rules and regulations as are by law provided for trials before single justices of the peace; to give judgments on said warrants and issue executions thereon, which judgment shall be final unless appealed from in the manner hereinafter provided for. The said intendant shall also be a peace officer and shall have within the limits of said town all the powers of a justice of the peace and of a constable for the preservation of the public peace, detection and arrest and punishment of offenders. The said intendant shall further have summary jurisdiction to hear and determine all breaches of the peace occurring within the limits of said town not above the grade of misdemeanor, and to punish all offenders, if free white persons, by a fine not exceeding twenty dollars or by imprisonment not exceeding twenty days; if free persons, but not white, then by fine and imprisonment as above, or by whipping, not exceeding thirty-nine lashes; if slaves, by a whipping not exceeding thirty-nine lashes, and the owner or manager of said slaves shall receive a reasonable notice of time of trial and a copy of the warrant for the arrest of said slaves, and, in case of their conviction shall be liable for the costs

thereof: *Provided, nevertheless,* That it shall and may be lawful in all cases for the person or persons, or in case of slaves, their owners or managers, against whom the said intendant of police shall give judgment or pass sentence by virtue of the summary jurisdiction hereby given, or for breach of law or laws relating to said town, or of any ordinances of said commissioners, or for any penalty or penalties given by said law or ordinances to appeal from said judgment or sentence to the superior court of law for the county of Lincoln-ton entering into recognizance, with good security, before the said intendant for the appearance of said appellant or appellants before the judge of the said superior court at the next term thereof, and for his, her or their performing and biding the judgment of the said superior court. And the said person or persons praying said appeal shall be allowed ten days to detain the said security: *Provided,* That execution may nevertheless issue on said judgment or sentence forthwith; and nothing herein contained shall be so construed as to stay the same. The said intendant of police is further vested with the same jurisdiction and powers over all other offences committed by slaves as is now by law given to a justice of the peace or justices of the peace out of court, under the same rules, regulations and restrictions as are prescribed in those cases. And the said intendant of police shall keep a faithful minute of all process issued by or returned before him, and of his judgments or sentence, and all the proceedings therein in a bound book and deliver the same to his successor. In case of an appeal duly taken from any judgment or sentence of said intendant he shall return the original and all other process in said court together with a copy of his minutes of his judgment or sentence, and of all the proceedings therein to the term of the court to which said appeal shall be taken, next ensuing the taking

said appeal on the first day of said term. The intendant of police whilst in town shall further have the same jurisdiction and power for the trial of all civil matters and controversies as is given to single justices of the peace, and he shall proceed under the same rules and regulations, as are by law prescribed for them; and the said intendant of police shall in all cases tried before him, be entitled to demand and receive the following fees, that is to say, in breaches of the peace and in all breaches of any of the ordinances of said commissioners, for every warrant twenty-five cents; for every subpœna or order to summon a witness, ten cents; for every judgment, fifty cents; for every appeal granted and recognizance taken in pursuance thereof twenty-five cents; for filing copies of his minutes, fifty cents; in civil cases for every warrant and attachment, ten cents; for every subpœna or order to summon a witness, five cents; for every judgment rendered upon any warrant, twenty-five cents; for granting an appeal or stay of execution, ten cents; for every execution ten cents; which said fees may be recovered and collected as other fees to officers are or may be collected: that the said council or either of them shall have power to arrest and carry before a justice of the peace any person or persons who shall in their province be guilty of any riot, unlawful assembly or other breach of the peace within the limits of said town: and that the constable or constables appointed by the said town council shall be entitled to the same fees and subject to the same penalties as constables appointed by the county courts.

SEC. 9. *Be it further enacted,* That the town council aforesaid shall have full and exclusive power and authority to cause to be opened and extended any streets or roads within the corporation, and to direct

the hands to clean out and keep in repair the streets and roads aforesaid, and shall impose such fines on persons who may neglect or refuse to work on the streets and roads aforesaid as are now established by law in such cases; that the said board of commissioners shall meet at the Court House, or some other place appointed by them, on the first Saturday in every month and at such other times as may be agreed on from time to time by them, and a majority shall constitute a quorum for the transaction of business.

SEC. 10. *Be it further enacted*, That at the first meeting of said board of commissioners after their election, they shall appoint a clerk, who shall be allowed a reasonable salary, to be fixed by said commissioners, who shall hold his office until the expiration of the official term of said commissioners, subject, however, to be removed by them at any time for misbehavior. Said clerk shall give a bond, with security, payable to said commissioners and their successors in office in a penal sum, to be fixed by them, with a condition for the keeping by him of regular and fair minutes of the proceedings of commissioners at their meetings, and the safe keeping of all books, papers and articles committed to his custody during his continuance in office and their delivery to his successor, and the faithful performance of all his other duties as clerk which may be imposed upon him by law or the ordinances of said commissioners.

SEC. 11. *Be it further enacted*, That at the same meeting the said board of commissioners shall appoint a town treasurer, who shall hold his office for the same term and subject to the same conditions as the clerk above provided for holds his. He shall, before assuming his office, give bond, with approved sureties, in a

penal sum to be fixed by said commissioners, payable to said commissioners and their successors in office, with a condition that he shall receive and faithfully keep all monies which shall be paid to him on behalf of said commissioners and disburse the same according to order given in obedience to the directions of said commissioners appearing on their minutes; that he shall keep a fair and correct account of all moneys so received and disbursed by him in a book kept for that purpose; that he shall submit said account to said commissioners whenever required to do so, and that he shall pay to his successors on demand by him all moneys in his hands belonging to said commissioners, and that he will faithfully perform all other duties imposed on him as town treasurer by law or the ordinances of said commissioners during his continuance in office, and that said treasurer shall collect all taxes levied by the council. The said commissioners shall allow the said town treasurer a reasonable compensation for his services; that the orders drawn on the town treasurer by the clerk shall state the purpose to which the money is to be applied, and the said town treasurer shall specify said purpose in general terms in the accounts kept by him, and also the sources whence the moneys received by him are derived, and said commissioners shall cause a copy of said accounts for the year preceding every first day of December to be made by their clerk and posted in the Court House in said town for twenty days next previous to the first day of January in each and every year, and for breach of their respective duties assigned them in this section the said commissioners, clerk and town treasurer shall be liable to indictment.

SEC. 12. *Be it further enacted,* That at the first monthly meeting of said commissioners, after the ap-

pointment of said clerk and town treasurer, those officers shall respectively report to the commissioners the particulars of their settlements with their respective predecessors in office.

SEC. 13. *Be it further enacted,* That the said commissioners shall, at their first monthly meeting after their election, appoint a town constable, who shall hold his office for the residue of the official term of the commissioners who appointed him, subject to be removed by them at any time for misbehavior. He shall give a bond in a penal sum to be fixed by said commissioners, payable to them and their successors in office, with a condition that he shall obey and diligently execute all lawful precepts to him directed by the intendant of police for said town, and that he will faithfully discharge all other duties which may be imposed upon him as town constable by law or the ordinances of said commissioners, and that he will diligently endeavor to carry into effect all such ordinances. It shall be the duty of said town constable in general to see that the ordinances of said commissioners are enforced, and report all breaches thereof to the intendant of police; to preserve the peace of said town by the suppression of disturbances, and the apprehension of offenders, and for that purpose he shall have, and he is hereby invested with, all the powers now vested by law in sheriffs and constables; he shall also have, in the execution of process to him directed by the said intendant of police, the same powers which sheriffs and constables now have in the execution of like process directed to them. He shall receive a compensation to be fixed by said commissioners, and the same fees on all process executed or returned by him, which are given to constables in like process when executed or returned by them.

SEC. 14. *Be it further enacted*, That vacancies in the office of town clerk, treasurer, and town constable, may be filled by said board of commissioners at any time.

SEC. 15. *Be it further enacted*, That the said town clerk shall, within the first seven days in March in each and every year, advertise for four weeks in one or more newspapers published in said town, or in three or more public places therein, notifying all persons subject to pay a poll tax to the State, who resided within the limits of the town on the first day of February immediately preceding, or who had been principally employed in any profession or avocation in said town for three months or more immediately preceding the said first day of February, and all persons who owned or were possessed of taxable property within said town on the said first day of February, to give in to him, before the last day in said month of March, a list of their said polls and taxable property, and it shall be the duty of all such persons to give in said list within the time specified. Said list shall state the number and local situation of the lots or parts of lots given in, with the value at which they were assessed for taxation by the State, the number of white taxable polls, of taxable slaves, and of taxable free negroes residing, on the first day of February, on the lands of persons giving in said lists, and the list so given in to the town [clerk] shall be sworn to before him, and he is hereby authorized to administer the oath by [to] the person giving in the same. The said lists shall be filed, and from the same the said town clerk shall, within twenty days from the said last day of March in each and every year, make in a book to be kept for that purpose, an alphabetical list of the persons and owners of property liable to taxation, in the same manner as tax lists are now made out by law

for collection of State taxes. The said clerk shall also, within twenty days from the said last day of March in each and every year, make out to the best of his knowledge, in the same book, a list of taxable polls, and the owners of taxable property within said town, who have failed to give in a list in the manner and within the time prescribed above; and he shall state in said list, if he can ascertain, the sum at which the said property is assessed for taxation by the State; and if the said clerk cannot ascertain the sum at which said property is assessed for taxation by the State, he shall call on two freeholders of land in said town to value the said property, and they shall be sworn by the intendant of police or some justice of the peace, to make a fair valuation, and the said clerk shall annex their valuation to said property. That all persons who shall fail to give in tax lists in the manner and within the time above prescribed, shall pay a double tax for that year, the amount of which double tax shall be stated by said clerk in his said list.

SEC. 16. *Be it further enacted*, That on or before the first day of May in each and every year, the said board of commissioners shall cause the said town clerk to make a fair copy of said list made by him as aforesaid, and they shall deliver the said copy to the tax collector, if any one shall have been appointed, and if not, to the sheriff of said county of Lincoln, together with a warrant under their hands and seals of those or a majority of them, authorizing and directing the tax collector or said sheriff to collect said taxes in said list mentioned, and to make return thereof and of said warrant on a certain day therein to be mentioned; and the said tax collector or sheriff is hereby vested with all the powers and rights for the collection of said taxes which sheriffs have for the collection of

State taxes, and said tax list and warrant shall be of the nature of a judgment and execution for the taxes therein mentioned.

SEC. 17. *Be it further enacted,* That the said board of commissioners shall have power annually to levy and cause to be collected in the manner above prescribed the following taxes, that is to say: a tax not exceeding fifty cents on every hundred dollars value of all the lots and parcels of lots, with the improvements thereon, situated within the limits of said town; a poll tax not exceeding two dollars on every poll liable to pay a poll tax to the State, who has resided in said town for three months immediately prior to the first day of February in each and every year, and all taxes laid on polls and real estate shall be in that relative proportion; a tax on all dogs being kept in said town, not exceeding three dollars on each; a tax on all hogs, whether running at large in said town or confined in lots and pens therein, and whether owned by persons residing in said town, or by any other person whatsoever, not exceeding three dollars on each hog, and in laying said tax said commissioners may discriminate between hogs running at large and hogs confined in lots or pens; a tax on all stoops, steps, porches or piazzas encroaching more than three feet on the public streets or side-walk; a tax on all itinerant merchants and pedlars, not exceeding five dollars for each itinerant merchant or pedlar: *Provided,* No tax shall be imposed on persons who shall sell books only; a tax on each and every person or company of stage players, slight of hand performers, rope dancers, tumblers and wire dancers, or company of circus riders or equestrian performers, and each and every person who shall exhibit artificial curiosities of any sort or kind, except models of useful inventions for a

reward and every person or company who shall exhibit natural curiosities of any kind or sort, a tax not exceeding twenty dollars on each and every person or company who may so play, perform or exhibit within the limits of said town, or within one mile of the limits of said town; and for all other exhibitions receiving pay or reward for the same, a tax as above; and said commissioners shall have power to make all necessary or proper rules, regulations or ordinances for the giving in of the taxable articles aforesaid and the laying and collecting the taxes thereon.

SEC. 18. *Be it further enacted*, That in case of a fire occurring in said town, it shall and may be lawful for the intendant of police, or, in his absence, two commissioners to order the blowing up, pulling down or destroying any house or houses which he or they shall deem expedient to be blown up, pulled down or destroyed for the purpose of stopping the progress of the fire, and no person or persons whatsoever shall be held liable, civilly or criminally, for acting in such case in obedience to such orders.

SEC. 19. *Be it further enacted*, That the said board of commissioners shall have power to authorize in such manner as they may ordain, the formation of one or more volunteer fire companies in said town, to be attached to an engine or engines which may belong to the corporation thereof, or to one or more individuals. They may enact by-laws for the government of said companies, which, when adopted by any company, the members thereof shall be governed by the same and be liable for the fines and penalties thereby incurred. Any volunteer fire company so formed shall be entitled to elect its own officers, and the members thereof shall be exempt from militia duty, except in

cases of insurrection or invasion, or draft, in time of war.

SEC. 20. *Be it further enacted,* That the said board of commissioners shall have power to organize a patrol for said town, either by hiring persons to act as such and paying them out of the treasury of said town, or by enrolling all the white free male inhabitants of said town of the age of eighteen years and upwards, except such as they think proper to exempt by reason of their poverty, joined with old age or infirmity, dividing them into classes of an equal number, to be arranged alphabetically or drawn by lot from the persons so enrolled, as they may deem expedient. The said board of commissioners shall have power to enact by-laws for the government of said patrol so hired or appointed, and to impose fines and penalties for the infringement of any such by-laws so enacted, which fine and penalties, when incurred by any minor, shall be recovered from the parent, guardian or master; if an apprentice, of such minor so offending; that the patrol so hired or appointed by said board of commissioners, whilst on duty, shall [have] all the powers which patrols now have by law, and for the suppression of riots and disturbances and the preservation of the public peace in said town, all powers now vested in constables as peace officers.

SEC. 21. *Be it further enacted,* That the said board of commissioners shall have power by ordinance to prohibit all persons recently from any place or places where an infectious or contagious disease is believed to exist or recently to have existed, from entering; and all goods and chattels from being brought from said place or places within said town; and by ordinances to fix a penalty for a breach of any of the rules

established by them upon this subject, which penalty shall be recovered from any and all persons who are liable thereto by action of debt in the name of the commissioners for the town of Lineolnton in any court having competent jurisdiction. The said commissioners shall also have power to take such other precautionary measures to prevent the introduction of infectious or contagious diseases into the said town as they may deem expedient. Said commissioners upon the certificate of a physician that a dangerous and infectious or contagious disease is existing in any house within said town, or in case the occupier of any house suspected to contain such disease shall forbid or prevent the visit of a physician sent by said commissioners for the purpose of examination, shall also have power to forbid and prevent all persons from leaving said house and its enclosures, and take such other steps to prevent communication with the persons so infected and to arrest the spread of the disease, as they may deem expedient, and to impose such penalty or penalties for the breach of their ordinance or ordinances made for the purpose, as they shall think proper. At any time upon the certificate of a physician that any slave or free negro is sick with a dangerous and infectious or contagious disease within said town, and that he can be removed without endangering his life, the said commissioners shall have power to cause said slave or free negro to be removed and confined to some convenient and proper place without said town, and shall cause him to be there attended to, as befits his situation; and it shall be lawful for them to sue for and recover from any free negro or the owner of any slave so removed, the expenses of his or her removal, support, nursing and medical attendance during the time of his or her sickness; and also in case of his or her death, the expenses of burial, by writ in the name of the commis-

sioners for the town of Lincolnton in any court having competent jurisdiction; and any and all persons attempting to prevent or resisting the removal of said slave or free persons from said town, shall be liable to indictment in the superior court of law for the county of Lincoln, and on conviction, punished as for a misdemeanor. The said commissioners shall have further power to impose such punishments on all slaves or free negroes violating this section or any of the ordinances of said commissioners made by virtue thereof or on a like subject matter, as they may deem expedient, not exceeding one month's imprisonment or thirty-nine lashes.

SEC. 22. *Be it further enacted,* That it shall be the duty of said board of commissioners to keep the streets of said town in good order, and they shall have the power to cause said streets to be drained, graded, and paved, and to cause all accumulation of dirt or filth to be removed from them. That said board of commissioners shall have control of the public wells of said town, and it shall be their duty to cause them to be repaired, and kept clean and in good condition, and provide new ones when necessary.

SEC. 23. *Be it further enacted,* That the board of commissioners shall have power to regulate the manner and terms on which bodies may be entered [interred] in the public cemetery within said town, and to keep the same in due order and repair; and also to purchase, when they deem it necessary, a piece of land within or beyond the limits of said town, as a public cemetery; they shall also have the power to forbid any and all interments of dead bodies within the limits of said town, whenever they shall think it expedient to do so.

SEC. 24. *Be it further enacted,* That said board of commissioners shall have power to acquire by purchase any piece or pieces of land as public squares for said town; and also to acquire any piece by purchase or lease as sites for markets or other buildings for the use of said town.

SEC. 25. *Be it further enacted,* That said board of commissioners shall have power to make from time to time rules and regulations concerning the firing of firearms within said town; the pace and speed at which horses may be ridden and driven through the streets of said town; the arrangement of stove pipes in buildings, and the mode in which fire shall be kept or carried through said town, so as to prevent accidents from carelessness or negligence or indiscretion; to regulate the manner in which powder and other explosive and inflammable substances may be kept and sold within said town; to regulate the manner in which dogs may be kept in said town; to prevent hogs from running at large in said town, whether said hogs shall belong to persons residing within or without said town; to prevent hogs from being confined in lots or pens in said town during the summer and fall months; to cause all lots, cellars, privies, stables and other places of like character to be visited and examined by the town constable or other persons at any and at all times, from the first day of June to the first day of November in each and every year, and upon his written report that any of the above places is or are a nuisance, to cause by their order the town constable to have the said place or places cleansed and the nuisance abated, and the said town constable shall have the power to enter the premises described in the said order and to perform the injunctions of the same; and the said commissioners shall have the power to recover the expenses of

abating said nuisance from the occupier or owner of said premises by suit in any court having competent jurisdiction; said board of commissioners shall have further power to prohibit all trades or occupations which are nuisances from being carried on in said town, or to regulate the manner in which they shall be carried on, so as to mitigate the nuisance; they shall also have the power to cause all ponds or sunken lots, in which water stands and stagnates within said town, to be drained and filled up, and to recover from the owner or occupier of the lands or lots aforesaid the expense of such drainage or filling up, which expense shall be a lien on the lot or land so drained or raised: *Provided, always,* That the owners or occupiers of said lands or lots shall have had three months notice in writing of the intention of said commissioners, and shall have during that time neglected or refused to drain or fill up said ponds or sunken lots; they shall further have power to cause all nuisances whether arising from stagnant pools or ponds of water or from any other cause without the limits of said town, but sufficiently near to affect the health of the inhabitants of said town, to be removed or abated and to pay for the removing or abating of any such nuisance above described out of any moneys in the treasury of said town.

Sec. 26. *Be it further enacted,* That said board of commissioners shall have power to regulate the manner in which provisions may be sold in the streets and markets of said town, and to regulate the manner in which the public markets and streets in said town may be used; and to affix penalties for the breach of their ordinances, which shall be recovered in the name of the commissioners of the town of Lincoln, before any court having competent jurisdiction.

Sec. 27. *Be it further enacted*, That said board of commissioners shall have power to make rules and regulations for enforcing the orderly conduct of slaves and free negroes within said town, and to impose punishments for the breach thereof.

Sec. 28. *Be it further enacted*, That the court of pleas and quarter sessions for the county of Lincoln, shall grant a license to retail spirituous liquors by the small measure within said town to no person who shall not have first obtained from the town clerk a certificate of the assent of said board of commissioners to his obtaining said license, which certificate shall be prima facie evidence of good moral character in the applicant, so as to supersede the necessity of proof by two witnesses as now required; and it shall be lawful for said board of commissioners to require said applicant to pay to the town treasurer a sum not more than ten dollars, before the said town clerk shall give the certificate of said assent by the board of commissioners; that any person or persons having obtained licenses for retailing spirituous liquors by the small measure, in the bounds of said corporation of Lincoln, who shall open and keep open his shop or place where he so retails for the purpose of selling or giving away spirituous liquors to any person or persons on the sabbath day, shall for each and every offence forfeit and pay the sum of twenty-five dollars, except it be for medicinal purposes, the said fine or penalty to be recovered by action of debt, before the intendant of police of said town or before any justice of the peace of said county for the use of said corporation; that any person or persons who shall sell spirituous liquors to a free negro, shall forfeit and pay for each offence the sum of twenty-five dollars.

SEC. 29. *Be it further enacted,* That said board of commissioners shall have power to protect from damage the shade trees planted in the streets and public squares of Lincolnton by imposing a fine or fines for the damage of the same on all persons guilty of injuring said trees, which said fines shall be collected as above for the use of said town; and also to make all such rules and ordinances not inconsistent with the laws of the State, or of the United States, as said council or a majority of them shall deem necessary and of public utility, and shall have full power and authority to enforce said laws, rules, &c., and impose fines and penalties, which when collected shall go to the use of said corporation.

SEC. 30. *Be it further enacted,* That all the forfeitures and penalties which are imposed by this act or which shall or may be imposed by the ordinances of said board of commissioners, and which are not hereby or shall not be by said ordinances directed to be recovered in any other manner or to any other use shall be sued for and recovered in the name of the commissioners for the town of Lincolnton, and all forfeitures so recovered shall be paid to the town treasurer for the use of said town.

SEC. 31. *Be it further enacted,* That the limits of said corporation shall remain as heretofore established.

SEC. 32. *Be it further enacted,* That all laws and clauses of laws, and all private acts of the General Assembly, relating to the town of Lincolnton, inconsistent with this act, be and they are hereby repealed.

SEC. 33. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly this 24th day of December, A. D., 1852.]

CHAPTER CCX.

AN ACT TO PROVIDE FOR THE BETTER REGULATION OF THE TOWN OF LOUISBURG, IN FRANKLIN COUNTY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That five persons shall be annually chosen by the free white men of the said town of Louisburg to act as a board of commissioners for the term of one year, and it shall be the duty of the sheriff of the county of Franklin by himself or his lawful deputy, on the first Monday in February in each and every year, first advertising the same for ten days at the court house door, to attend at the court house in Louisburg, and hold an election for that purpose, under the same rules and regulations as other elections are held in said county.

SEC. 2. *Be it further enacted*, That if the sheriff of said county shall fail or neglect to hold the election aforesaid, he shall forfeit and pay the sum of one hundred dollars, to be recovered by any person suing for the same in his own name, one half to the commissioners of said town, and the other half to the use of the person suing for the same.

SEC. 3. *Be it further enacted*, That any person residing within the county of Franklin, and owning real estate in the said town of the value of five hundred dollars or upwards, shall be eligible to act as commissioner in the said town; and all free white men of the age of twenty-one years and upwards, who have resided in said town one month immediately preceding the day of election, be entitled to vote for five commissioners as aforesaid.

SEC. 4. *Be it further enacted*, That the said commissioners, when elected and so declared by the said sheriff, shall convene as soon thereafter as possible, and enter upon the duties of their office, after having taken and subscribed the following oath before an acting justice of the peace for Franklin county, or before the magis rate of police hereinafter provided for, to wit: "I, A. B., do solemnly swear that I will execute the office of commissioner for the town of Louisburg to the best of my skill and ability, so help me God."

SEC. 5. *Be it further enacted*, That the said commissioners and their successors in office shall be a body politic and corporate, by the name and style of the board of commissioners for the town of Louisburg, and shall [have] full power and authority to appoint a treasurer, clerk, town constable and such other officers as to them shall appear necessary for the better regulation of the said town, and regulate the salaries of such officers.

SEC. 6. *Be it further enacted*, That the commissioners aforesaid shall have power to require from the town constable bond, with approved security for the faithful performance of his duties in any sum they

may think proper, not exceeding five hundred dollars.

SEC. 7. *Be it further enacted*, That hereafter it shall be lawful for the town constable to execute all warrants for violation of town ordinances, and also all subpœnas, executions and other process relating to the same, and that said town constable shall have all the powers of other constables in Franklin county, so far as their criminal law is concerned within the limits of said corporation.

SEC. 8. *Be it further enacted*, That the commissioners of the said town shall have full power and authority to appoint one of their board a magistrate of police, who shall have authority to issue warrants for a violation of town ordinances, to try the same, and to render judgment against the defendants (if found guilty) and to issue executions in the same manner to all intents and purposes as justices of the peace are allowed to do in warrants for penalties under the laws of this State; and that it shall also be lawful for either party, who may be dissatisfied with his judgment to appeal to the next county or superior court in the same manner and under the same rules that appeals are taken from the judgments of justices of the peace.

SEC. 9. *Be it further enacted*, That it shall hereafter be lawful for the magistrate of police to have and exercise all the powers of a single justice of the peace within the limits of said corporation so far as breaches of the peace and other criminal offences are concerned.

SEC. 10. *Be it further enacted*, That the commissioners shall have full power and authority to lay a tax upon all taxable persons and property in said town, not exceeding ten cents upon every hundred dollars worth

of real estate, nor exceeding one dollar upon every free taxable poll who resides in said town, and it shall, and it is hereby expressly declared to be the duty of the sheriff of said county to collect the same at the same time, and under the same rules and regulations as he collects other taxes, and he shall be entitled to the same fees as for collecting other taxes, and shall pay over to the treasurer of the said board of commissioners all such moneys as he has received on or before the first day of October in each and every year, under the penalty of one hundred dollars, to be recovered by treasurer of board of commissioners upon motion in open court at the first court in the county of Franklin after such default shall happen.

SEC. 11. *Be it further enacted*, That said commissioners shall obtain from the clerk of the county court of Franklin a copy of the returns of the list of taxables and taxable property in the said town for each and every year, and cause the same to be delivered to the sheriff within one month from the time of [the] annual returns are delivered to him by the clerk of the county court, with the rates of taxes by them imposed, which list shall be the guide of the said sheriff for collecting the internal taxes of the said town; and if such list with the rates imposed is not delivered in due time, the said sheriff shall not be liable to any fine or forfeiture incurred under this act.

SEC. 12. *Be it further enacted*, That hereafter it shall be lawful for the commissioners of Louisburg to lay and collect a tax not exceeding the sum of ten dollars upon every person or company of stage players sleight of hand performers, rope dancers, tumblers and wire dancers, or company of circus riders or equestrian performers who may perform in said town, and upon

all and every person who shall exhibit artificial curiosities of any kind or sort in said town, except models of useful inventions, for a reward, and also a tax not exceeding three dollars upon every person or company who may exhibit natural curiosities of any kind in said town for a reward, which said taxes are to be collected and accounted [for] by the town constable in the same manner as other corporation taxes for the town of Louisburg are accounted for by the sheriff.

SEC. 13. *Be it further enacted*, That the said commissioners shall have full power and authority to make such by-laws, rules, regulations and ordinances for the good government of said town as to them may appear just and proper, not inconsistent with the laws of this State.

SEC. 14. *Be it further enacted*, That all acts heretofore passed for the regulation of said town, which come in conflict with the provisions of this act be and the same are hereby repealed.

SEC. 15. *Be it further enacted*, That this act shall take effect from and after the day of its ratification.

[Read three times and ratified in General Assembly, the 27th day of December, A. D., 1852.]

CHAPTER CCXI.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO INCORPORATE THE TOWN OF LUMBERTON," PASSED AT THE SESSION OF THE GENERAL ASSEMBLY OF 1850-'51.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That upon the death, resignation or refusal to act, of any of the commissioners elect of the town of Lumberton, the remainder or a majority of them, shall have power and authority to appoint his or their successor or successors, who shall have the same power and authority, rights and privileges of his or their predecessor or predecessors.*

SEC. 2. *Be it further enacted, That it shall be the duty of the town clerk appointed by the commissioners aforesaid, to advertise in the public places in said town, at least ten days before the first day of April in each and every year, notifying all persons subject to pay poll tax, and all persons who own or are possessed of taxable property within the said town, on the said first day of April to give in to him before the fifteenth day of said month, a full and perfect inventory of said polls and taxable property; said inventory shall state the number and local situation of the lots or parts of lots given in; the number of white taxable polls, or taxable slaves, and the taxable free negroes, living upon the lots or parts of lots given in on the said first day of April; and the inventory so given in to the clerk shall be sworn to before him, and he is hereby authorized to administer the oath to the per-*

son or persons giving in the same ; and it shall be the duty of the said clerk to furnish to the commissioners of said town, a true and perfect copy of said inventory in alphabetical form, within ten days after the said fifteenth day of April. The said clerk shall at the same time make out and return to the said commissioners a list of the taxable polls and property with the name or names of the person or persons or the owner or owners thereof, not giving in the said list, and all persons failing to give in their tax list in the manner and within the time above described, shall pay a double tax for that year.

SEC. 3. *Be it further enacted*, That the said commissioners shall, upon the receipt of the inventory furnished by the clerk, proceed at their pleasure to assess and value for taxation all the real estate in said town ; and for the purpose of keeping good order in said town, opening and repairing streets and side walks, digging and keeping in repair wells, pumps, ditches, &c., shall have power annually to lay and cause to be collected the following taxes, that is to say : a tax not exceeding thirty cents on every hundred dollars' value of real estate ; and in case there may be lots or parcel of lots in said town not of the value of one hundred dollars, then the tax shall be in the ratio of thirty cents upon the hundred dollars' value ; a poll tax not exceeding one dollar and fifty cents on every poll liable to pay a poll tax to the State, who has resided or has been engaged in work or business in said town three months previous to the first day of April in each and every year ; and the said board of commissioners shall have power to tax at their discretion all horses, cattle, hogs, goats, dogs, &c., running habitually at large in the streets of said town, so as to prevent their becoming a nuisance to

said town, or troublesome or inconvenient to any citizen thereof; they shall also have the power to tax at their discretion, itinerant merchants and pedlars, (except persons selling books,) every person or company of stage players, sleight of hand performers, rope and wire dancers, circus and equestrian performers or companies, and every thing of the like character not herein before enumerated; this, however, is not intended to comprehend artificial and natural curiosities not of an immoral nature, which fact shall be judged of by the commissioners: and the said commissioners shall have power to make all necessary or proper rules, regulations, or ordinances for the enforcement of their ordinances, collecting taxes, &c.

SEC. 4. *Be it further enacted*, That the said board of commissioners shall appoint, at their first regular meeting, a town constable, who shall hold his office for the residue of the official term of said commissioners, subject to be removed by them at any time for misbehavior or failure to discharge his duty. The said constable, before entering upon the duties of his office, shall enter into bond in a penal sum, fixed by said board of commissioners, payable to said commissioners and their successors in office, with a condition that he shall obey and diligently execute all lawful commands and precepts to him directed by the magistrate of police of said town, and that he will faithfully discharge all duties imposed upon him as town constable by law, or the ordinances of said commissioners; and it shall be the duty of said town constable to see that the ordinances of said commissioners are enforced, and report all violations of the same to the magistrate of police; to preserve the peace of the said town by suppressing disturbances, and for that purpose he shall have and is hereby invested with all the

powers now vested by law in sheriffs and constables. He shall also have, for the execution of process to him directed by the magistrate of police, the same power which sheriffs and constables now have, and the same fees allowed to sheriffs, when executed or returned by them.

SEC. 5. *Be it further enacted*, That the court of pleas and quarter sessions for the county of Robeson shall not grant a license to any person to retail ardent spirits by the small measure within said town, who shall not first have obtained from the town clerk the assent of said commissioners to his obtaining said license, which certificate shall be *prima facie* evidence of good moral character and supersede the necessity of proof of two witnesses, as now required by law; and it shall be lawful for the said commissioners to require the said applicant to pay to the town treasurer a sum not exceeding ten dollars before the said town clerk shall give said certificate of assent.

SEC. 6. *Be it further enacted*, That Robert E. Troy shall be magistrate of police, and Edward Lewis, Sr., W. W. Gunn, John M. Hartman and R. S. French shall be commissioners of said town of Lumberton from and after the first day of January next for one year, or until others are appointed.

SEC. 7. *Be it further enacted*, That the words, "*on the first Monday in February.*" in the first section of the act incorporating the said town of Lumberton, passed at the session of the General Assembly of 1850-'51, be stricken out and the last Saturday in December inserted instead thereof.

LAWS OF NORTH CAROLINA,

SEC. 8. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 27.h day of December, A. D., 1852.]

CHAPTER CCXII.

AN ACT TO INCORPORATE THE TOWN OF JONESVILLE, IN YADKIN COUNTY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That it shall be the duty of the sheriff of Yadkin county, either by himself or his lawful deputy, on the first Saturday in May in each and every year, to open polls in the town of Jonesville for the election of five commissioners in and for the said town of Jonesville, to continue in office for the term of one year, and until others duly chosen and qualified have entered upon the duties of their office : *Provided*, That no one shall be eligible as commissioner who has not resided six months preceding his election within the limits of the said town of Jonesville, and is an actual resident at the time of such election.

SEC. 2. *Be it further enacted*, That every inhabitant of said town who has resided six months therein, and who is qualified according to the constitution to vote for members to the House of Commons, shall be entitled to vote in said election, and such election shall be by ballot, and in the event of a tie, the sheriff or his lawful deputy shall give the casting vote.

SEC. 3. *Be it further enacted,* That said commissioners, after their election, and before entering upon the duties of their office, shall take an oath before some justice of the peace of said county, of Yadkin, faithfully and impartially to perform said duties, and thereupon they shall constitute a body politic and corporate by the name and style of "The Commissioners of Jonesville," and by such name they shall be invested with a succession and common seal, and shall have power to hold real and personal property; to sue and be sued, and to pass and ordain such by-laws and ordinances not inconsistent with the constitution of the United States and of this State, as from time to time a majority of them may deem expedient and advisable for the good government of said town.

SEC. 4. *Be it further enacted,* That said board of commissioners shall have power to appoint a magistrate of police, a town constable, and treasurer; and the constable so appointed shall be the collector of the town tax, under the direction of said commissioners, and for that purpose shall have all the powers and immunities of sheriffs in the collection of the public revenue; and shall collect all fines and forfeitures arising by virtue of this act, by warrant before any justice of the peace for said county of Yadkin, and shall receive for his services the fees which by law the sheriffs and constables of this State are entitled to for like services.

SEC. 5. *Be it further enacted,* That it shall be the duty of each person residing or holding property in said town, to deliver to the said board of commissioners, whenever required, a statement on oath of all the property owned or possessed by such person within the limits of said town liable to be taxed; and on fail-

ure to do so when required by the board of commissioners, within one month, shall pay double taxes on all property not given in as required by this act, unless on sufficient excuse shown, to be adjudged of by the board.

SEC. 6. *Be it further enacted*, That said board shall appoint an overseer of the streets and roads within the limits of the corporation, whose duty it shall be to keep them in good and sufficient repair; and for this purpose he is empowered to require the services of all persons residing in said town liable by law to work on roads, as often as shall be necessary; and in all other respects shall possess the powers and be liable to the penalties to which overseers are now liable.

SEC. 7. *Be it further enacted*, That all persons living within the limits of said town, liable to work on public roads, be and they are hereby exempt from working on all roads without the limits of said corporation.

SEC. 8. *Be it further enacted*, That if any of the commissioners elected as by this act required, and having been notified thereof ten days, shall neglect or refuse to take the oath prescribed for one month after the election aforesaid, unless he shall remove out of the limits of said town or be otherwise incapable of serving, shall be liable to pay twenty dollars for the use of said town, for which forfeiture the county solicitor for said county of Yadkin is hereby required to bring suit in the name of the commissioners of Jonesville, in the county court of Yadkin.

SEC. 9. *Be it further enacted*, That the corporate limits of said town of Jonesville are hereby described to be as follows, viz: Beginning at a stake on the bank of the Yadkin river, in John J. Woodruff's plantation, above his dwelling, running east with meanders of said river to the mouth of Cob's Creek, up said creek to the fork; thence up the east prong of said creek to the south side of F. A. Harris' plantation; thence southwest, so as to include the plantation of Mary Hicks: thence northwest, so as to include the dwelling-house of John J. Woodruff, to the beginning.

SEC. 10. *Be it further enacted*, That this act shall be in force from and after its ratification, and that all laws and clauses of laws coming in conflict with the provisions of this act are hereby repealed.

[Read three times and ratified in General Assembly, this 29th day of November, A. D., 1852.]

CHAPTER CCXIII.

AN ACT TO ENLARGE THE POWERS OF THE COMMISSIONERS OF THE TOWN OF NEWBERN.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall and may be lawful for the commissioners of the town of Newbern, and they are hereby authorized and empowered to subscribe for five hundred shares of the capital stock of "The Neuse River Navigation Company," to be held by the commissioners of the town of Newbern for the use and benefit of said town.

SEC. 2. *Be it further enacted,* That to enable the commissioners of the town of Newbern to meet the payments which may be required by the Neuse River Navigation Company on the stock subscribed for, by virtue of the first section of this act, the commissioners of the town of Newbern are hereby authorized and empowered from time to time, or at such time or times as to them shall seem fit, to make, execute and deliver their bonds for the payment of such sums of money as they may think proper, in the aggregate not exceeding fifty thousand dollars, which said bonds shall be signed by the intendant of police of the town of Newbern and sealed with the corporate seal of the commissioners aforesaid.

SEC. 3. *Be it further enacted,* That the bonds so as aforesaid to be executed shall be payable not less than ten years nor more than twenty years from the time of their respective dates; shall severally be for

sums not less than five hundred dollars nor more than ten thousand dollars; shall bear interest not exceeding six per centum per annum, and the interest stipulated to be paid on said bonds respectively shall be payable annually.

SEC. 4. *Be it further enacted,* That the holders or owners of the bonds issued by virtue of this act, or of any one or more of such bonds, shall not be required to include the interest accruing on the same in their list of taxable property; and such bonds and the interest accruing or received thereon, shall not be subject to any tax whatsoever.

SEC. 5. *Be it further enacted,* That to provide for the payment of the bonds issued by virtue of the provisions of this act, and to provide for the payment of the interest accruing on the same, it shall be lawful for the commissioners of the town of Newbern, and they are hereby authorized, empowered, and required, from year to year, and every year, to assess, levy, and collect, and from the real estate within the limits of the town of Newbern, such an amount of taxes, in addition to the amount required for other purposes, as shall be necessary to pay and discharge the interest annually accruing on such bonds, issued as aforesaid; and also to raise a sinking fund sufficient to pay and discharge said bonds, when the same shall respectively become due and payable.

SEC. 6. *Be it further enacted,* That the shares of the capital stock of the Neuse River Navigation Company, which may, by virtue of the provisions of this act, be subscribed for by the commissioners of the town of Newbern, shall be held by said commissioners as a security for the payment of the bonds to

be issued by virtue of the previous provisions of this act, and the interest accruing on the same; and all such dividends or profits as may accrue on the stock aforesaid shall be, in the first place, applied to the payment of the interest accruing on the bonds issued as aforesaid, and the residue remaining after the payment of such interest, shall be applied to make a part of the sinking fund for the payment and discharge of the principal money due on said bonds.

SEC. 7. *Be it further enacted,* That the commissioners of the town of Newbern are hereby authorized and empowered to adopt all such rules and regulations as shall be necessary to carry into effect the provisions of this act.

SEC. 8. *Be it further enacted,* That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly,
this 22d day of December, A. D., 1852.]

CHAPTER CCXIV.

**AN ACT TO INCORPORATE THE TOWN OF NEW SALEM
IN THE COUNTY OF RANDOLPH.**

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That William P. Elliott, Jesse M. Hocket, Noah C. Jewel, L. D. Odle and William B. Vickry and their successors in office be constituted a body politic and corporate under the style of "The Commissioners of the Town of New Salem," and shall continue in office until the second Thursday of February, 1854, and until their successors are elected in the manner hereinafter prescribed, and they shall have full power to pass all such by-laws which they may deem necessary for the government of said town, which are not inconsistent with the constitution of the State of North Carolina and the constitution of the United States.

SEC. 2. *Be it further enacted,* That the citizens of said town on the second Thursday of February of every year after 1853, shall elect five commissioners who shall remain in office one year, and until their successors are elected.

SEC. 3. *Be it further enacted,* That no person shall be eligible as a commissioner, unless he is a resident and the owner of an improved acre lot of land in said town, nor shall any person vote in said election, but free white males of the age of twenty-one years, who shall have resided in the town six months immediately preceding the election.

SEC. 4. *Be it further enacted*, That any justice of the peace (or in case there be no resident justice) any two citizens of the town, who are eligible to the office of commissioner, may hold the election and determine who are elected.

SEC. 5. *Be it further enacted*, That the commissioners who are herein appointed and those hereafter to be elected, shall soon after their appointment or election, choose a resident of the town, a magistrate of police to preside at their meetings and give the casting vote in case of a tie, also a town constable and treasurer. The commissioners shall lay such taxes upon persons and property as they may deem proper, and apply the same to the improvement and repair of the streets, and other purposes, for the well regulation of the town.

SEC. 6. *Be it further enacted*, That the town constable shall proceed to collect the taxes when directed by the commissioners, and shall have all authority and use all the means exercised and used by the sheriffs in the collection of taxes.

SEC. 7. *Be it further enacted*, That the corporate limits of the town shall extend to the same boundaries which are now known as the corporate limits thereof.

SEC. 8. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 25th day of December, A. D. 1852.]

CHAPTER CCXV.

AN ACT TO CONSOLIDATE AND AMEND THE SEVERAL ACTS HERETOFORE PASSED FOR THE GOVERNMENT OF THE TOWN OF OXFORD, IN GRANVILLE COUNTY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That William S. McClanahan, Robert W. Lassiter, Russel Kingsberry, James C. Cooper and William Hunter, and their successors in office, be and they are hereby appointed commissioners for the town of Oxford, in the county of Granville, and the said commissioners and their successors are hereby incorporated into a body corporate and politic, by the name of "The Commissioners for the Town of Oxford," and by that name shall have succession, may sue and be sued and have a common seal, and by such name shall have power from time to time, and at all times hereafter, to adopt such rules and regulations and pass such by-laws and ordinances as by them, or a majority of them, may be deemed necessary and proper for the order and good government of the said town; and such rules, regulations, by-laws and ordinances so passed shall be as binding as if they were herein specially enacted: *Provided,* They are not inconsistent with the constitution of the United States, or of this State. A majority of the said commissioners shall be necessary to constitute a quorum for the transaction of business, and the rules, regulations, by-laws and ordinances adopted or proposed by a majority of such quorum shall be as binding in all respects as if the same had been unanimously adopted or passed in full meeting.

SEC. 2. *Be it further enacted*, That no person shall be eligible to the office of commissioner of said town unless he shall have resided therein for at least one year immediately preceding his election, and for six months shall have possessed and continues to possess within the corporate limits of said town a freehold in lands and tenements, of the value of not less than fifty dollars, according to the value of the same for taxation; and no person shall be entitled to vote in any election for commissioners of said town, except free white men of the age of twenty-one years, who shall have resided in said town for twelve months immediately preceding such election.

SEC. 3. *Be it further enacted*, That the commissioners herein before named shall hold their office until their successors shall be elected and qualified as hereinafter provided for.

SEC. 4. *Be it further enacted*, That the sheriff of Granville county, by himself or his deputy, shall, on the first Monday of June in the year one thousand eight hundred and fifty-three, and on the first Monday of June in each succeeding year hold an election for five commissioners of said town in the manner following, to wit: He shall hold the said election in the Court House, in the town of Oxford, after giving ten days' previous notice by advertisement at two or more public places in said town, the polls to be opened at 10 o'clock, A. M., and closed at sunset. He shall summon two freeholders residing in said town to inspect and superintend the election, and within five days thereafter shall give the persons elected notice of their election, and shall also, within the same time, file with the commissioners of the town for the time being

the poll-books and a certificate in writing of the persons so elected ; and if the sheriff neglect or refuse to hold such election to give such notice or to file such certificate for every such neglect or refusal, he shall forfeit and pay the sum of fifty dollars, to be recovered before any justice of the peace of the county of Granville by any citizen of said town, one half to the use of the said town and the other half to the use of the person so suing for the same, and either party may appeal from the judgment of the said justice to the next term of the superior court of law of said county upon sufficient security being given as now prescribed by law in cases of appeals. The inspectors so summoned by the sheriff shall be the judges of the qualification of voters, and, in case of their disagreement, the sheriff shall decide. The five persons receiving the highest number of votes shall be declared elected as commissioners ; and if the sheriff cannot declare that five persons are duly elected by reason that two or more of the persons voted for have received an equal number of votes, then it shall be his duty to give the casting vote between those having such equal number of votes, so as to secure the election of five commissioners as herein provided for. In every case of failure from any cause to hold or make such election, the same shall be held on the first Monday of July next following the day of such failure, and the sheriff shall hold the same under the same rules and regulations as herein provided for in elections to be held on the first Monday in June, and for every neglect or failure by the said sheriff to hold such election as herein directed, he shall be subject to the same penalty and to be recovered in the same manner as herein before prescribed for neglect or failure in relation to the election to be held on the said first Monday in June.

SEC. 5. *Be it further enacted*, That the sheriff shall be allowed the sum of two dollars for each and every election which he may hold by virtue of this act, to be paid by the corporation.

SEC. 6. *Be it further enacted*, That the said commissioners and their successors, before entering upon the duties of their office, shall take an oath before the sheriff of said county, or some justice of the peace, that they will faithfully and impartially discharge their duties. It shall be the duty of every commissioner, who may at any time be elected, to qualify within five days after receiving notice as aforesaid of his election, under the penalty of thirty dollars, to be recovered by warrant before any justice of the peace of the county of Granville, in the name of any citizen of said town, one-half to the use of said town, the other half to the use of the person so suing for the same, and with the right of appeal to the superior court of law of said county as mentioned in the fourth section of this act. The commissioners chosen at any election, shall hold their office until their successors shall be elected and a majority of them qualify.

SEC. 7. *Be it further enacted*, That if any commissioner shall die, remove from said town, or be unable to act, or if any person elected as commissioner shall refuse or fail to qualify within the time by this act prescribed, it shall be the duty of the commissioners in office for the time being, or a majority of them, to supply the place of the commissioner so dying, removing, or unable to act, or if the person so refusing or failing to qualify, by the appointment of some person having the requisite qualification and to cause every person so appointed to be notified of his ap-

pointment within five days after the making of the same; and every person so appointed, before entering upon the duties of his office, and within five days after being notified of such appointment, shall qualify in the same manner as herein before required of persons elected as commissioners; and for refusal or failure so to do, shall be subject to the like penalty, to be recovered in the same manner as hereinbefore prescribed in respect of persons failing to qualify after election as commissioners.

Sec. 8. *Be it further enacted*, That the commissioners of the said town shall have power and authority to appoint one of their own number magistrate of police, and may also appoint a town treasurer, constable, and such officers as they may deem necessary, and prescribe their duties, who shall hold their offices at the pleasure of the said commissioners; and as to all the said offices, except that of magistrate of police, the said commissioners may in their discretion appoint the same person to two or more of the same. The town constable aforesaid shall be collector of the town taxes under the direction of said commissioners, and for that purpose shall have all the powers and immunities of sheriffs in the collection of the public revenue, and for collecting the said taxes he shall be entitled to such compensation as the commissioners shall think proper to allow.

Sec. 9. *Be it further enacted*, That the town constable and treasurer respectively shall be required by said commissioners to give bond and security to be approved by them in the penal sum of two thousand dollars each, payable to the State of North Carolina, and conditioned for the faithful performance in all respects of their duty in office respectively. The form

of said bonds, and conditions of the same, to be settled by the said commissioners, and the said bonds shall be renewed as often as the said commissioners shall think proper to require, and the same remedies are allowed upon said bonds as are now provided by law upon the official bonds of sheriffs and constables; and every case of failure on the part of said constable or the said treasurer, the said commissioners may bring suit on the bond of the officer guilty of said failure.

SEC. 10. *Be it further enacted*, That the compensation of all persons appointed to office, or employed by them, shall be in the discretion of the said commissioners, except when the compensation is herein fixed by law.

SEC. 11. *Be it further enacted*, That the magistrate of police shall preside when present, at all meetings of the commissioners, and shall have one vote therein. He shall have power at any time to call a meeting of the commissioners, and it shall be his duty to call such meeting whenever thereto requested by any two of the board. When he fails to attend a meeting those present may proceed to appoint a temporary chairman.

SEC. 12. *Be it further enacted*, That any commissioner of said town shall have full power and authority to issue process against any person charged with the violation of any ordinance, by-law or regulation of said town, for the purpose of compelling the appearance of such person before the commissioners issuing the same, or some other commissioner of said town, to answer the said charge, which process shall be directed to the town constable, or to any lawful of-

ficer of the county of Granville, and shall be made returnable without unreasonable delay ; and shall have also, full power and authority to hear and determine the same, and to discharge the defendant or to give judgment thereupon against the defendant for any forfeiture, penalty or penalties annexed by said ordinance, by-law or regulation for such violations of the same, as well as for costs, and to enforce the said judgment by execution against the goods and chattels or against the body of the defendant, in the same manner and under the same rules and regulations as are now prescribed by law in regard to executions issued by justices of the peace, except that such execution shall run in the name of the commissioners of the said town, and be signed by the commissioners issuing the same, and shall be directed in like manner as the process before mentioned, and except further, that no affidavit shall be necessary to authorize the issuing of execution against the body of the defendant, *Provided*, That the defendant shall have the right of appeal to the superior court of law of said county upon the same terms and under the same rules and regulations as are prescribed by law in regard to appeals from justices of the peace to the superior court, and it shall be lawful for any person who shall be in execution for any such judgment, to be discharged under the same rules and regulations as are prescribed for debtors in execution by the fifty-eighth chapter of the Revised Statutes, entitled "An act for the relief of insolvent debtors," except that the motive therein required of the defendant's intention to avail himself of the benefit of said act, shall be given to some one of the commissioners of said town.

SEC. 13. *Be it further enacted*, That the said commissioners shall have full power and authority to

provide for compelling the attendance of witnesses and for their compensation, by such rules, regulations and ordinances as to them shall seem expedient.

SEC. 14. *Be it further enacted*, That every commitment or imprisonment by virtue of this act, shall be in the public jail of the county of Granville, and the jailor of said county shall be entitled to receive the same fees, and to be paid as in other like cases.

SEC. 15. *Be it further enacted*, That the corporate limits of the said town, shall be one thousand yards in every direction from the court house in said town, and within those limits the commissioners shall have jurisdiction.

SEC. 16. *Be it further enacted*, That the commissioners of the said town shall have power, annually to levy and collect such taxes on the real estate and on the polls in said town which by the existing laws of the State are subject to taxation, as to them shall seem necessary for the purposes of said town: *Provided*, That the said tax shall not in any one year exceed fifty cents on the one hundred dollars worth of real estate and one dollar on each taxable poll: *And provided further*, That no incorporated academy or other incorporated institution for the instruction of youth shall be required to pay taxes on the real estate of such academy or institution.

SEC. 17. *Be it further enacted*, That the said commissioners shall have power and authority to prescribe the mode of listing all polls and real estate liable to taxation by virtue of this act, and of assessing the value of such real estate. They may adopt the valuation of such real estate as the same may be as-

sessed for State or county taxes, or they may provide for the assessment thereof by assessors appointed by them for that purpose, annually, or at longer intervals. They shall regulate the time for giving in the said list, and may change the same as they may deem expedient. They may impose a double tax, for failure to give in the said lists in the manner and at the times prescribed by the commissioners, and they may adopt such other rules and regulations in regard to the listing of polls and real estate and the assessment of real estate, and the collection of all taxes imposed by them as to them may seem necessary: *Provided*, That in every assessment the improvements shall be always considered in estimating the value of real estate: *And provided further*, That the said taxes shall not be levied and collected more than once in any one year.

SEC. 18. *Be it further enacted*, That the commissioners of said town shall have power and authority to levy and collect annually a tax not exceeding twenty dollars upon every person or company of stage players, sleight of hand performers, rope dancers, tumblers, and wire dancers, upon [each] and every person or company of circus riders or equestrian performers who may perform in said town, and upon each and every person or company who shall exhibit for a reward artificial curiosities of any kind or sort in said town, except models of useful inventions; a tax not exceeding ten dollars upon every person or company who may exhibit natural curiosities of any kind in said town for a reward; a tax not exceeding ten dollars upon every merchant, retailer of spirituous liquors, ordinary or tavern keeper in said town, and upon every itinerant merchant or pedlar of goods, wares, merchandize, or jewelry, not of the growth or manu-

facture of this State, who may offer for sale in said town any portion of such goods, wares, merchandize, or jewelry: *Provided*, That no tax shall be imposed on persons who shall sell books only; and a tax upon all dogs kept in said town, not exceeding one dollar upon each dog; and the said commissioners shall have power and authority to make all necessary or proper rules, regulations, or ordinances for laying and collecting the taxes which are herein authorized to be laid and collected.

SEC. 19. *Be it further enacted*, That said commissioners shall have power to make from time to time rules, regulations or ordinances to restrict or prevent the firing of fire arms, fire crackers, fire rockets and other combustibles, prepared in whole or in part from powder or other explosive or inflammable materials within the limits of said town; to regulate the speed and space at which horses may be rode or driven through the streets of said town; to regulate the building and putting up of chimneys and stove-pipes and the mode which fire shall be carried through said town, so as to prevent accidents from carelessness, negligence or indiscretion; to regulate the manner in which powder and other explosive and inflammable substances may be kept and sold in said town; to regulate the manner in which dogs shall be kept in said town; to prevent hogs from running at large in said town, whether said hogs shall belong to persons residing within or without the said town; to prevent hogs from being confined in pens or lots in said town between the first of June and first of November; to regulate or restrict the exhibition of horses and other animals in the streets and public squares of said town; to cause all lots, cellars, stables and unclean places to

be examined at any and all times from the first of June to the first of November of each and every year, and to abate any nuisance that may exist in or be caused by the same at the expense of the owner or occupier of the premises where the said nuisance may be, unless he or she shall remove the same within such time as the commissioners shall direct. The said commissioners shall have power to drain or fill up all ponds or sunken lots in which water stands and stagnates, and to recover the expenses thereof from the owner or occupier of such lots: *Provided*, That the owner or occupier shall have had two months' notice in writing of the intention of such commissioners, and during that time shall have neglected or failed to drain or fill up such pond or sunken lot. They shall also have power to regulate the manner and terms on which interments shall be made in the public burying ground in said town, and to keep the said burying ground in repair; they may purchase land within or without the limits of said [town] to be used as cemeteries and they may regulate the same; they may forbid all interments in any church-yard now in said town or which hereafter may be established in said town; they may prevent interments from being made on any private lot in said town within sixty yards of any street or road, or within that distance from any adjacent lot; they may take such precautionary measures to prevent the introduction of contagious or infectious diseases and adopt such sanitary rules to protect the health of said town as they may deem expedient; they shall support the peace and good order of the inhabitants of said town, and others who may be there, and suppress all rioters and disorderly assemblies, especially on the Sabbath day, whether of free persons or slaves; they shall have power to make regulations or

ordinances for enforcing the orderly conduct of slaves and free negroes within said town; they shall have power to regulate the manner in which grain, meat, provisions and other articles may be sold in the market and streets of said town; they shall have a general supervision and authority over the streets, roads and public squares in said town, and shall have power to prevent all obstructions therein, to cause the same to be removed when they exist, and to prevent all encroachments thereon from buildings, fences or other cause; they may plant trees upon the side-walks and public squares, and impose penalties for injury to the same, and they may impose a penalty or penalties for the violation of any rule, regulation, by-law or ordinance herein authorized, and prescribe rules for enforcing and collecting the same.

SEC. 20. *Be it further enacted,* That the said commissioners shall have power to drain, grade, or otherwise improve the said streets, and to cause all accumulations of dirt or filth to be removed from them. They shall have power to appoint one or more overseers of the streets and roads in said town, and to assign to them respectively such a number of the persons liable to work on said streets or roads as they may think proper; and it shall be the duty of said overseers to keep the streets and roads assigned to them as aforesaid, in good repair, and for a failure to perform their duty they shall be liable to the same penalty and the same punishment as overseers of the public roads, for a failure to perform the duties required of them by law; but no person shall be compelled to act in the capacity of overseer more than one year in three.

SEC. 21. *Be it further enacted,* That all persons within the limits of said town, who are by law liable to work on public roads, shall be liable to work on the streets of said town, and for a failure to do so shall be subject to the same penalties which are now provided by law against those who fail when duly summoned to work on the public roads of the county, which said penalties shall be recovered of the father or guardian in the case of minors, and of the owners in case of slaves failing to work on the streets or roads.

SEC. 22. *Be it further enacted,* That persons liable to work on the streets and roads, are to be summoned and notified in the same manner as persons liable to work on the public roads of the county, and the overseers of the streets shall be competent witnesses to prove due notice, and all penalties for a failure to work on the streets or roads, shall be recovered in the name of the overseer by whom the summons is made, and the money recovered is to be applied to the keeping of said streets and roads in repair.

SEC. 23. *Be it further enacted,* That no overseer of the streets or roads in said town shall be liable for the insufficiency of the streets or roads committed to his care until ten days after he has been served with notice in writing of his appointment.

SEC. 24. *Be it further enacted,* That the commissioners, whenever they think proper to do so, may assist the overseer with the hands under his care in keeping the streets and roads in repair, by hiring laborers for that purpose, or they may dispense with the appointment of overseers altogether, and shall keep

the said streets and roads in repair by contracting for the same upon such terms as they may deem best.

SEC. 25. *Be it further enacted,* That whenever any hog or hogs shall be taken up under an ordinance of said town, the owner or owners of which shall not be a citizen thereof, the said owner or owners shall be notified in writing not less than twenty-four hours before said hogs may be sold, provided that the said hog or hogs shall be marked with the owner's ear-mark, and provided further, that the said owner or owners shall have, previous thereto, filed with the commissioners of said town a description of his or her ear-mark in writing.

SEC. 26. *Be it further enacted,* That whenever the said commissioners shall desire to lay off or extend a street, and the owner or owners of the land over which the proposed street will run, are unwilling to surrender the same without compensation, it shall be the duty of the said commissioners to submit to the vote of those citizens of the town who are eligible to the office of commissioner, the question whether the said street shall be laid off or extended as proposed. If a majority of those voting shall be in favor of the proposed street, then the said commissioners may proceed to establish the same, after making compensation to the owners of the land which may be taken for that purpose, which compensation shall be determined in the following manner: The said commissioners shall present to some justice of the peace of Granville county a statement in writing, setting forth a description of the proposed street, and a list of the owners, and if the owners are not known of, the occupiers of the land over which the proposed street will run;

whereupon the said justice shall issue his warrant to the sheriff of said county, or the coroner thereof, if the sheriff is a party interested, commanding him to summon from the county twenty freeholders to meet upon the premises on a certain day to be named by the commissioners, and of which they shall give the owners twenty days notice, when they are citizens of the State, and notice by advertisement for four weeks, in some paper published in the city of Raleigh, when the owner is not a resident of the State, and where infants may be the owner, notice to the guardian shall be sufficient. From the freeholders thus summoned, a jury of twelve shall be drawn and empannelled, who being duly sworn by the sheriff or coroner to do impartial justice in the premises, shall proceed to assess the damages which the owners of said land will respectively sustain by reason of establishing the proposed street, in making which assessment they shall consider not only the damage sustained by the owners, but also the benefit accruing to them from the establishment of the said street. The assessment of the jury subscribed by them, shall be returned to the next county court of said county, to be there recorded, and the said commissioners upon paying or tendering to the persons in whose favor damages have been assessed, the sums to which they are respectively entitled, or if the said persons reside out of the county of Granville, or be infants, or *femes covert*, upon paying the same to the clerk of the county court, to be paid out under the order of said court, shall have full power and authority to lay off or extend the said street as may have been proposed by them: *Provided*, That no dwelling house which may have been erected before the commissioners shall have advertised to take the vote as herein directed, shall be condemned or removed for

the purposes of said street against the will of the owner: *And provided further*, That the owner of such dwelling house erected as aforesaid, shall not be compelled to surrender any land belonging to him by which the line of said street would run within sixty feet of such dwelling house. And it shall be the duty of the commissioners when the case arises, to make provision for taking the vote in and by this section directed, and to advertise for at least twenty days, the time and place for taking the same; *Provided further*, That if either party is dissatisfied with the amount of damages assessed by the jury, they may appeal under the same rules and regulations as are now prescribed for appeals from justices of the peace.

SEC. 27. *Be it further enacted*, That the said commissioners, in any case where they consider the damages assessed as aforesaid to be unreasonable, may cease all proceedings in relation to laying off or extending the proposed street, and decline to pay the damages so assessed for the same.

SEC. 28. *Be it further enacted*, That the sheriff or coroner shall be entitled to ten cents for summoning each juror and two dollars for his other services in executing the said warrant, and each juror summoned and attending shall be entitled to the same compensation as jurors in the courts of Granville county, to be paid by the corporation; and if from any cause the sheriff or coroner shall fail in executing the said warrant upon the first day appointed, he shall, at the request of the said commissioners, summon another jury and proceed to assess the damages under the rules and in the manner herein before prescribed.

SEC. 29. *Be it further enacted,* That if at any time the said commissioners shall propose to lay off or extend a street and the owners of the land over which the proposed street will run shall give their consent in writing that the same may be done without claim for compensation, or if at any time the owners of land in said town shall desire to establish a street thereon, and shall file with the commissioners a written expression of their wishes in the premises, in every such case the said commissioners may, in their discretion, establish the street so consented to or proposed, and the same shall be a public highway as the other streets of said town.

SEC. 30. *Be it further enacted,* That the commissioners may agree with the owners of the land over which any proposed street will run, as to the amount of damages to be paid for such land, and if, after giving notice by advertisement of the amount of damages so agreed upon, a majority of those voting upon the question of establishing such street shall be in favor thereof, the commissioners shall proceed to establish said street without any inquest for damages as hereinbefore provided for.

SEC. 31. *Be it further enacted,* That the said commissioners shall have power to appoint a patrol of one or more persons for the said town, by hiring persons to act as such, and paying them out of the treasury of said town, or they may enrol all the free white male inhabitants of said town above the age of eighteen and under the age of fifty, except such as are now exempted by law from patrol duty, may be by the commissioners exempted from such service by reason of ill health, infirmity, or other good [cause,] and

may divide them into classes as they may deem expedient. The said commissioners shall have power to make by-laws for the good government of the patrol so hired or appointed, and to impose fines or penalties for the infringement of the by-laws so enacted, which fine or penalty, when incurred by a minor, shall be paid by his father or guardian, and when incurred by an apprentice, by the master of such apprentice: and such patrol shall have all the power and authority of patrol appointed under the laws of this State.

SEC. 32. *Be it further enacted*, That the magistrate of police of said town shall have all the powers of a single justice of the peace within the limits of said town, so far as the criminal law is concerned.

SEC. 33. *Be it further enacted*, That the town constable shall have, within the limits of said town, all the powers of a constable of the county, so far as the criminal law is concerned, and the said constable shall execute all orders and process which the said commissioners, or any one of them, may direct to him by virtue of this act.

SEC. 34. *Be it further enacted*, That whenever the said commissioners shall, by virtue of this act, pass any by-law or ordinance by which a penalty is annexed [*is annexed*] to the commission of any offence, it shall be the duty of the said commissioners to cause such by-law or ordinance to be advertised by posting up a written copy thereof at some point in or near the Court House, in Oxford, within five days after the same shall have been passed.

SEC. 35. *Be it further enacted*, That all laws or clauses of laws inconsistent or coming in conflict with the provisions of this act be and the same are hereby repealed.

SEC. 36. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

CHAPTER CCXVI.

AN ACT TO AMEND THE CHARTER OF THE TOWN OF SALISBURY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That the board of commissioners of the town of Salisbury shall annually, at their first regular meeting in the month of February, appoint three freeholders, citizens of said town, whose duty it shall be to assess the taxable real estate lying within the corporate limits of the town of Salisbury, and they shall make a list thereof, together with the names of the owners of said property, and shall return it to the clerk on or before the next regular monthly meeting of the board, and the taxes laid by the commissioners on the real estate of the town of Salisbury shall be collected according to the assessment made by the freeholders appointed under this act.

SEC. 2. *Be it further enacted*, That before proceeding to make the assessment provided for in the preceding section, the freeholders shall be duly sworn before some justice of the peace of Rowan county to discharge faithfully and impartially the duties imposed upon them by this act.

SEC. 3. *Be it further enacted*, That this act shall take effect from and after its ratification.

[Read three times and ratified in General Assembly, this 17th day of December, A. D., 1852.]

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CHAPTER CCXVII.

AN ACT TO APPOINT COMMISSIONERS TO SELL A PORTION OF THE STREETS IN THE TOWN OF SHELBY IN THE COUNTY OF CLEVELAND, AND FOR OTHER PURPOSES.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That it may be lawful for the county court of the county of Cleveland to appoint three commissioners to dispose of all fractions and parts of streets in the town of Shelby in said county, as the said commissioners may think is not necessary for the use of the public, and the said commissioners may dispose of the same either at private

or public sale as they may think best: *Provided*, That nothing in this act shall relate to any of the public streets either upon or leading to the public square.

SEC. 2. *Be it further enacted*, That upon such sale being made by said commissioners, and the purchase money being paid, the said commissioners are hereby authorized to make title to said purchaser, and the money obtained from the sale of said streets, shall be paid into the hands of the county trustee for the use of the county: *Provided*, That the county court shall confirm the sale of said commissioners before title is made to the same.

[Read three times and ratified in General Assembly this 12th day of November, A. D., 1852.]

CHAPTER CCXVIII.

AN ACT AUTHORIZING THE COMMISSIONERS OF THE TOWN OF SMITHVILLE TO CONVEY TO THE CONGREGATION OF SAINT PHILLIPS A CERTAIN LOT WITHIN THE LIMITS OF SAID TOWN, UPON WHICH A CHURCH EDIFICE NOW STANDS.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That the commissioners of the town of Smithville, in the county of Brunswick, may have full power and authority to convey in

fee simple to the person or persons legally authorized to receive the same, a certain lot or parcel of ground in said town, upon which the church edifice now stands, and is used as a house of divine worship by the congregation known as Saint Phillip's Church.

SEC. 2. *Be it further enacted*, That all laws, coming in conflict with this act, be and the same are hereby repealed, and that this act shall be in force and take effect from its ratification.

[Read three times and ratified in General Assembly, this 21st day of December, A. D., 1852.]

CHAPTER CCXIX.

AN ACT TO AMEND THE SEVERAL ACTS HERETOFORE PASSED, AND WHICH ARE NOW IN FORCE FOR THE INCORPORATION AND GOVERNMENT OF THE TOWN OF TARBORO', AND TO AUTHORIZE AND EMPOWER THE COMMISSIONERS OF THE SAID TOWN TO LAY OFF A PORTION OF THE COMMON OF SAID TOWN INTO LOTS AND SELL THE SAME.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That hereafter all male free negroes residing in said town, shall be liable to the same taxes, burdens and duties for all purposes as

free white males, and that no free person shall be subject to any capitation or poll tax or to work on the streets of said town after he shall have attained the age of forty-five.

SEC. 2. *Be it further enacted*, That hereafter it shall be the duty of the freehold owners, or the guardians of such as are infants, of real estate, situate in said town, and subject to taxation for the support and improvement of said town, and the keeping up of the streets thereof, to list the same, and that all lists of persons or property, subject to taxation for the purposes aforesaid or either of them, shall have reference and relate to the first day of June in each and every year, and that it shall be the duty of all heirs or temporary owners of slaves for the term of one year or longer, to list the same during the continuance of such term and to pay the taxes thereon, and that the penalty for each days' failure to work on the streets of said town shall be eighty cents.

SEC. 3. *Be it further enacted*, That in order to establish the value of the real estate in said town as the basis of taxation, the commissioners of said town on or before the first day of June eighteen hundred and fifty-three, and every second year thereafter shall appoint three freeholders residing in said town, who shall be styled "The Board of Valuation," whose duty it shall be to ascertain either upon a view of the premises or otherwise, as accurately as may be, the cash valuation of each lot with the improvements thereon, or part of a lot with the improvements thereon, the freehold ownership of which is in more than one person in severalty, and to return a report thereof within thirty days after their appointment to the said commis-

sioners, which they shall cause to be filed and recorded by the clerk of said town, and the persons composing such board of valuation shall annex to their report the following affidavit, which shall be signed and sworn to by them before the magistrate of police of said town, or some justice of the peace of the county of Edgecombe, and certified by him: "We solemnly swear that the foregoing valuation of lots and parts of lots, with the improvements thereon, in the town of Tarborough, made by us, are in our judgments and belief, the actual value thereof in cash, and that in making the same we have endeavored to do equal justice to the said town and to the individuals concerned, so help us God;" and if any person who shall be appointed as aforesaid, a member of the said board of valuation, shall refuse to serve as such he shall forfeit and pay the sum of fifty dollars to be recovered before any justice of the peace of the county of Edgecombe by suit in the name of the commissioners of said town for the use and benefit thereof.

SEC. 4. *Be it further enacted*, That the magistrate of police, clerk, treasurer, constable, tax-collector and all other subordinate officers of said town now or who shall be hereafter in office and authority, shall remain and continue in office and authority until their successors shall be respectively duly elected, qualified and appointed, and that the commissioners of said town now in office and authority, or who shall be hereafter duly elected and qualified, shall remain and continue in office and authority until a majority of their successors shall be duly elected and qualified.

SEC. 5. *Be it further enacted*, That the commissioners of said town shall have full power and authority to lay off, as nearly as may be in conformity

with the plan of said town, into lots and streets the whole or any part of that portion of the common belonging to said town which lies on the western side thereof, between the inhabited portion thereof and Hendrick's or Holly's Creek, reserving an acre for the Baptist Church and two acres for the Tarboro' Academy, and to sell the whole or any number of the said lots at public sale, after giving due notice thereof for thirty days, upon a credit of twelve months, with interest from the day of sale, taking bonds, with two good sureties, from the purchasers, payable to the commissioners of the town of Tarborough, and upon the payment either of the cash or the bonds, taken as aforesaid, to convey the lots sold as aforesaid in fee simple to the purchasers, their heirs or assigns. The proceeds of the sale of said lots to belong to the treasury of said town and to be applied as other moneys therein for the use and benefit of said town; and it shall be the duty of the said commissioners, after the said portion of the said common shall have been laid off into streets and lots as aforesaid, to prepare two plans or diagrams of the same, numbering each lot and commencing with one hundred and twenty-two, one of which they shall file in the office of the county court clerk of Edgecombe, and the other they shall cause to be filed by the clerk of said town.

SEC. 6. *Be it further enacted*, That this act shall take effect and be in force from and after its ratification, and that all laws coming in conflict with any of its provisions be and the same are hereby repealed.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

CHAPTER CCXX.

AN ACT TO INCORPORATE THE TOWN OF TROY, IN THE COUNTY OF MONTGOMERY, AND APPOINT COMMISSIONERS OF THE SAME.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That Nathaniel Knight, William H. McRae, Jacob Lassiter, David Pember-ton, and David Wright, and their successors in office, be and are hereby appointed commissioners of the town of Troy, in the county of Montgomery, and that they constitute a body politic and corporate, and that they and their successors in said office be and are authorized to pass any and all by-laws for the regulation of said town which they may deem necessary, not inconsistent with the constitution of this State or of the United States.*

SEC. 2. *Be it further enacted, That said commissioners and their successors from time to time shall decide how their successors shall be appointed, and that this act shall be in force from and after its ratification.*

[Read three times and ratified in General Assembly.
this 27th day of December, A. D., 1852.]

CHAPTER CCXXI.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO AMEND AN ACT PASSED IN THE YEAR 1818, CHAPTER 42," ENTITLED "AN ACT TO ELECT A MAGISTRATE FOR THE TOWN OF WILMINGTON."

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the sheriff of the county of New Hanover shall open polls at the election precinct or precincts in the town of Wilmington, for the election of a magistrate for the town of Wilmington, on the first Monday in February, one thousand eight hundred and fifty-three, and biennially thereafter, under the same rules, regulations, and restrictions that elections are directed to be held for members of the General Assembly, and in case of the failure of the sheriff to hold said election, it shall be competent for a justice of the peace and two freeholders to appoint suitable person or persons to hold said election.

SEC. 2. *Be it further enacted,* That all persons residing within the corporate limits of the town of Wilmington, who are qualified to vote for members of the house of commons of the General Assembly of the State, shall be entitled to vote for the magistrate for the town of Wilmington.

SEC. 3. *Pe it further enacted,* That the sheriff or other persons qualified to hold said election, shall, at the court-house or other place of returning or com-

paring the poll, declare the person having the highest number of votes duly elected magistrate for the town of Wilmington, who shall continue in office two years next after his qualification, and in the event of two or more persons having an equal and the highest number of votes for the office aforesaid, then and in that case the court of pleas and quarter sessions for the county of New Hanover, a majority of the acting justices being present, shall proceed to make the election as prescribed for the election of sheriff under like circumstances, and said court in manner aforesaid shall be a competent tribunal to decide all contested elections for magistrate for the town of Wilmington.

SEC. 4. *Be it further enacted*, That the magistrate elected under this act shall, at the first term of the county court of New Hanover which shall happen after the election, or at the term when elected, if elected by the court, take an oath for a faithful discharge of the duties of the office of magistrate for the town of Wilmington, and no person shall be eligible to the said office who is not, at the time of his election, an acting justice of the peace for the county of New Hanover.

SEC. 5. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

TURNPIKE COMPANY.

CHAPTER CCXXII.

AN ACT TO INCORPORATE THE FRENCH BROAD TURNPIKE COMPANY.

SEC. 1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That James W. Killiam, William Duckworth, O. L. Erwin, McQueen Johnstone, L. S. Gash, Alex. Henry and B. F. Akin be and they are hereby appointed commissioners for receiving subscriptions for the purpose of laying out and making a turnpike road from the South Carolina line, beginning at some point in the county of Henderson, and thence down the valley of the French Broad River to any point on the Buncombe Turnpike Road that the company hereby authorized may select, and the said commissioners, or a majority of them, shall cause books to be opened at such times and places and under the direction of themselves or such other persons as they may appoint, and the same shall continue open for two months, unless the sum of thirty thousand dollars shall be subscribed before that time, at which time the said books shall be returned to said commissioners at Claytonville, in the county of Henderson, who shall, by public notice in one or more newspapers, appoint a general meeting of stockholders, personally or by proxy, which meeting may continue until the business thereof shall be finished, and if, in the opinion of the stockholders in such general meeting assembled, a suf-*

ficient sum shall have been subscribed to make said road, or any part thereof, desired by those owning a majority of the stock so subscribed, said subscribers may organize themselves into a company and accept this charter, when they, their heirs and assigns, shall constitute a body politic and corporate, under the name and style of "The French Broad Turnpike Company," and as such may sue and be sued, plead and be impleaded, and have perpetual succession and a common seal, and all other rights necessary for the objects of the company; and such of the subscribers as may be present at the said meeting, or those representing a majority of stock shall have power to elect a president and three directors for conducting the business of the company for one year, and until others are elected, and enter upon the duties assigned them by the company, and every proportion [proprietor] of stock, by writing under his hand, may depute any other stockholder to vote for him at any general meeting, and the vote of such proxy shall be as effective to all intents and purposes as if the proprietor were personally present and voting for himself.

SEC. 2. *Be it further enacted,* That after the organization of the company, as provided in the first section of this act, the president and directors thereof, in case they deem it necessary and proper, may and they are hereby authorized to appoint commissioners to reopen books at such times and places as they may and shall direct, and keep the same open until the sum of thirty thousand dollars shall be subscribed, which books shall be returned to the president and directors of said company, and the persons so subscribing, their heirs and assigns, shall become stockholders in said company to the amounts so subscribed by them, and

as such entitled to all the rights and privileges conferred by this act on the original subscribers.

SEC. 3. *Be it further enacted,* That the capital stock aforesaid, shall be divided into shares of fifty dollars each, and any person may subscribe for one or more shares but shall not subscribe for part of a share. The shares owned by the State and individuals shall be paid at such times and places, and by such instalments as the president and directors of the company shall direct, they first giving forty days notice in some newspapers in the State; and if any person holding any share in said company shall fail to pay the instalments as called for in pursuance of this act the company may sue for and recover the same in any tribunal having jurisdiction thereof, or they may expose to sale the shares which such delinquent may hold, by giving ten days public notice of the same; and if the stock shall not sell for a sum sufficient to pay the sum due, the residue may be recovered of the person owing the same, and the books of the said company shall be good evidence of their sale and purchase of said stock.

SEC. 4. *Be it further enacted,* That the president and directors, or a majority of them, shall, on behalf of the corporation have power and authority to contract for the construction, improving and repairing of said road or any part thereof, and to make all such contracts touching the same as may be necessary and expedient; and the said president and directors may appoint a treasurer, clerk and such other officers and managers as they may deem necessary; and when ten miles of said road shall be completed, a toll-gatherer or toll-gatherers may also be appointed, all or any of whom they may require to give bond and security for

the faithful performance of their several duties, and remove them at pleasure.

SEC. 5. *Be it further enacted*, That no general meeting shall be lawfully constituted, unless a majority of the shares is duly represented, and from and after the first general meeting, the succeeding ones shall be held at such time and places as the preceding general meeting shall appoint, or in case they fail to make an appointment, then at such time and places as the president and directors shall and may appoint, at which time and place a president and directors shall be elected; but if a sufficient number does not attend, those present may adjourn to some further day; and to every annual meeting the president and directors shall make a report of all their proceedings and accounts, which shall be carefully examined by the meeting, and if found just and accurate shall receive a vote of approval; and at every annual meeting an equal dividend of all the nett profits arising from the tolls shall be ordered to be made to the proprietors of said company in proportion to their several shares, after leaving in the hands of the treasurer a sufficient sum to answer the contingent charges: *Provided always*, That under no circumstances shall a greater dividend be made than twenty per cent. per annum.

SEC. 6. *Be it further enacted*, That in all meetings of the proprietors each stockholder shall be entitled to one vote for each share under ten, and one vote for every two shares over that number.

SEC. 7. *Be it further enacted*, That as a compensation to said stockholders for the expenditures made under this act, the profits of said road are vested

in them, their executors and assigns for the period of forty years, to be completed from the erection of the first toll-gate, in proportion to their respective shares; and it shall and may be lawful for the president and directors, during the said term, to demand and receive at some convenient toll-gates, to be by them erected, such tolls as they may prescribe: *Provided*, The tolls so collected, does not exceed in annual profits the sum aforesaid; and the agents of the company under the direction of the company may refuse a passage along said road and through their said gates, until the toll required by said company shall be paid; and if any person shall pass any of said gates without paying the toll, the company may sue for the same before any tribunal having cognizance of the same: *Provided*, That nothing in this act contained shall render any citizen residing within five miles of the gate through which he wishes to pass liable to pay toll.

SEC. 8. *Be it further enacted*, That the road hereby authorized shall be made twenty feet wide, except in such places as shall require side cutting, where it shall be fifteen feet, and the inclinations of said road shall not exceed one foot perpendicular to twelve feet horizontal.

SEC. 9. *Be it further enacted*, That said road shall be taken and considered a public highway, free for the passage of persons, animals and carriages of every description on the payment of the tolls authorized by this act.

SEC. 10. *Be it further enacted*, That the president and directors may agree with the owners of any land over which said road is intended to pass, for the purchase thereof, and in case of disagreement, or if

the owner shall be *feme covert*, under age, *non compos*, or out of the State, on application to any two justices of the county where the lands lie, the justices shall issue their warrant to the sheriff of said county to summon a jury of twelve freeholders, to meet on the land to be valued on a day expressed in said warrant, not less than ten nor more than twenty days thereafter; and the sheriff on the receipt of said warrant, shall summon the jury, and when met, shall administer an oath or affirmation: *Provided*, Six or more appear, that they will impartially value the land in question, and consider the damages the owner thereof may sustain in consequence of being divested of his property therein, and that he will not in his valuation spare any person through favor, nor injure any one through malice or hatred; and the inquisition so taken shall be signed by the sheriff and six or more jurors and returned to the clerk of the county court of said county to be recorded; and in all such cases, the jury is hereby directed to describe the land valued, and such valuation shall be conclusive, and the president and directors shall pay the sum to the owner of the land valued or his legal representatives, and if neither can be found in the State, or if found should refuse to receive the money, then the clerk of the county court, and on payment thereof the said corporation shall be seized in fee of the land so valued: *Provided*, No such condemnation shall authorize said company to appropriate any house, yard or garden of any person without the consent of the owners.

SEC. 11. *Be it further enacted*, That the president and directors may agree with the proprietors for a quantity of land, not exceeding four acres, at any one place at or near each place intended for the col-

lection of tolls for the purpose of erecting the necessary buildings, and in case of disagreement or any of the disabilities aforesaid, the same proceedings may be had and the same conveyances shall follow as provided in the preceding section.

SEC. 12. *Be it further enacted*, That every stockholder may transfer his stock by a deed registered in the company's books after due proof of its execution, and not otherwise except by will, which shall also be proven and registered in the books of the company before the person claiming under the will shall be entitled to draw any part of the profits: *Provided*, That no transfer shall be made except for one or more whole shares; and that no share shall at any time be sold, conveyed, transferred or held in trust for the use and benefit of another, whereby the said president and directors or stockholders, members of said company or any of them shall be made to answer any such trust, but that every such person appearing to be the owner of stock shall as to others of the company be to every intent and purpose taken absolutely as such; but between the trustee and the person for whose benefit such trust shall be executed the common remedy may be pursued.

SEC. 13. *Be it further enacted*, That if at any general meeting of said company, held for the election of officers, directors and managers of said company, a majority of stock shall not be represented, then and in that case the president and directors then in office, shall continue therein until a meeting of the stockholders so constituted can be had.

SEC. 14. *Be it further enacted*, That said company may change the track of said road at pleasure.

and shall have all the power to condemn land for that purpose as is given by this act for the condemnation of land for its original location.

SEC. 15. *Be it further enacted*, That this act shall be in force from and after its ratification.

[Read three times and ratified in General Assembly this 27th day of December, A. D., 1852.]

RESOLUTIONS

OF A PRIVATE NATURE,

PASSED BY THE

LEGISLATURE OF NORTH CAROLINA,

AT ITS

SESSION OF 1852.

RESOLUTIONS.

RESOLUTION IN FAVOR OF JOSEPH H. BOWDITCH.

Resolved by the General Assembly of the State of North Carolina, That the public treasurer pay to Joseph H. Bowditch, of Edgecombe county, the sum of fifty dollars, this amount being erroneously listed and paid by him in the year 1851, as agent Ætna Insurance Company.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

RESOLUTION IN FAVOR OF PERRIN BUSBEE.

Resolved by the General Assembly of the State of North Carolina, That the treasurer of this State be and is hereby authorized to pay to Perrin Busbee six dollars, for his services as clerk to the House of Commons.

[Read three times and ratified in General Assembly, this 23d day of October, A. D., 1852.]

RESOLUTION IN FAVOR OF THE CLERKS OF THE SENATE AND HOUSE OF COMMONS.

Resolved by the General Assembly of the State of North Carolina, That an extra allowance of forty dollars be allowed to each of the clerks of the House and Senate, for having the journals copied and prepared for publication.

[Read three times and ratified in General Assembly this 27th day of December, A. D., 1852.]

A RESOLUTION IN FAVOR OF JAMES R. DODGE.

Resolved by the General Assembly of the State of North Carolina, That the treasurer of the State be directed to pay James R. Dodge, clerk of the supreme court at Morganton, one hundred and twenty-two dollars and seventy one cents, (122 71,) it being the amount of clerks', sheriffs' and printers' fees in two informations to vacate grants, filed in said court, to wit : Attorney General *vs.* Adam Carver, and Attorney General *vs.* John Ray and others.

[Read three times and ratified in General Assembly, this 6th day of November, A. D., 1852.]

RESOLUTION IN FAVOR OF THE DOOR-KEEPERS.

Resolved by the General Assembly of the State of North Carolina, That the public treasurer pay to each of the door-keepers of both houses, twenty-five dollars, the usual allowance, and that they be compelled to pay out of the same the hands necessary employed by them for bringing wood and water to the state-house during the present session.

[Read three times and ratified in General Assembly, this 24th day of December, A. D., 1852.]

RESOLUTION IN FAVOR OF THE ENGROSSING CLERKS.

Resolved by the General Assembly of the State of North Carolina, That the principal clerks of the two Houses be and they are hereby authorized to employ one or more additional assistant engrossing clerks, as they may be needed, for the present General Assembly, and that they shall be paid the same amount *per diem* as the other engrossing clerks are now paid by law.

[Read three times and ratified in General Assembly, this 22d day of December, A.D., 1852.]

RESOLUTION TO PAY ASSISTANT ENGROSSING CLERKS.

Resolved by the General Assembly of the State of North Carolina, That the public treasurer be authorized and directed to pay to Joseph Small, D. King, William A. Walsh and Oliver Perry eighteen dollars each, for six days attendance as engrossing clerks; to A. J. Terrell nine dollars, for similar services; and that he be allowed the same in the settlement of his public accounts.

[Read three times and ratified in General Assembly, this 27th day of December, A. D. 1852.]

RESOLUTION IN FAVOR OF SEATON GALES.

Resolved by the General Assembly of the State of North Carolina, That the treasurer of the State be directed to pay Seaton Gales, Esq., thirty-two dollars, advanced by him in pre-payment of postage on Supreme Court Reports, required by law to be furnished the clerks of the county courts in the different counties of the State.

Resolved further, That hereafter, so long as the postage law requires pre-payment on all such matter,

the treasurer be directed to pay the postage on said reports authorized as above to be furnished.

[Read three times and ratified in General Assembly, the 23d day of December, A. D., 1852.]

RESOLUTION IN FAVOR OF CHARLES LATHAM, SHERIFF OF WASHINGTON COUNTY.

Resolved by the General Assembly of the State of North Carolina, That the public treasurer pay to Charles Latham, sheriff of Washington county, the sum of one hundred dollars out of any moneys in the treasury not otherwise appropriated, the same being an amount overpaid by said sheriff in settling the State tax for the year 1849, and for which he was not properly liable.

[Read three times and ratified in General Assembly, this 21st day of December, A. D., 1852.]

**RESOLUTION IN FAVOR OF THOMAS LATHAM OF
BEAUFORT COUNTY.**

Resolved by the General Assembly of the State of North Carolina, That the public treasurer pay to Thomas Latham of Beaufort county (out of any money in the treasury not otherwise appropriated) forty-five dollars, and that the same be allowed him in the settlement of his public account.

[Read three times and ratified in General Assembly,
this 25th day of December, A. D., 1852.]

RESOLUTION IN FAVOR OF GEORGE LITTLE.

Resolved by the General Assembly of the State of North Carolina, That the public treasurer be directed to pay to George Little, of Raleigh, the sum of seven hundred dollars, it being the value in full of all demands against the State, for a negro slave Rufus, the property of said Little, killed in December, 1848, on the Raleigh and Gaston Railroad, while said road was under the care of the agents of the State.

[Read three times and ratified in General Assembly,
this 25th day of December, A. D., 1852.]

RESOLUTION IN FAVOR OF WILLIAM R. LOVELL.

Resolved by the General Assembly of the State of North Carolina, That the public treasurer pay to William R. Lovell the sum of two dollars and twenty-five cents, the amount paid by him for putting up the curtains to the upper windows of the Commons Hall, and that he be allowed the same in the settlement of his public accounts.

[Read three times and ratified in General Assembly, this 25th day of December, A. D., 1852.]

RESOLUTION IN FAVOR OF JAMES MCKIMMON.

Resolved by the General Assembly of the State of North Carolina, That the public treasurer pay to James McKimmon, of the city of Raleigh, the sum of twenty-one dollars and eighty-eight cents, it being for green baize furnished the door-keeper of the House of Commons for the windows of the same, by order of said House, and that he be allowed the said amount in settlement of his accounts.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

RESOLUTION IN FAVOR OF B. F. MOORE AND EDWARD STANLY.

Resolved by the General Assembly of the State of North Carolina, That the public treasurer pay B. F. Moore the sum of five hundred dollars, in full for all his services in certain suits; and the sum of two hundred dollars to Edward Stanly, for extra services as attorney general in the same suits.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

RESOLUTION IN FAVOR OF RUFUS H. PAGE.

Resolved by the General Assembly of the State of North Carolina, That the treasurer of this State be and he is hereby directed to pay to Rufus H. Page fifty dollars, for making a tabular statement of the population of this State, from the census of 1850, for the use of this General Assembly.

[Read three times and ratified in General Assembly, the 17th day of December, 1852.]

RESOLUTION IN FAVOR OF RUFUS H. PAGE, OF WAKE COUNTY.

Resolved by the General Assembly of the State of North Carolina, That the public treasurer pay to Rufus H. Page ten dollars, being the amount of money due him for preparing a map of Cherokee lands, to enable the agent to discharge his duties.

[Read three times and ratified in General Assembly, this 17th day of December, A. D., 1852.]

RESOLUTION IN FAVOR OF P. F. PESCU.

Resolved by the General Assembly of the State of North Carolina, That the public treasurer pay to P. F. Pescud the sum of twelve dollars and fifty-five cents, for articles furnished the General Assembly in 1850 and 1851, and the treasurer pay the same out of any moneys in the treasury not otherwise appropriated, and that he be allowed the same in the settlement of his public accounts.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

RESOLUTION IN FAVOR OF W. L. POMEROY.

Resolved by the General Assembly of the State of North Carolina, That the sum of one hundred and twenty-seven dollars and seventeen cents, (\$127 17,) be and the same is hereby directed to be paid to W. L. Pomeroy, out of any moneys in the treasury not otherwise appropriated, for furnishing the two houses of the General Assembly with stationery for the present session, and that the public treasurer pay the same.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

RESOLUTIONS IN FAVOR OF THE SURETIES OF J. A. POOL, LATE SHERIFF OF PASQUOTANK.

1. *Resolved be the General Assembly of the State of North Carolina,* That the sureties on the official bonds of Joshua A. Pool dec'd late Sheriff of Pasquotank county, on the bonds executed in the year 1849, be, and they are hereby authorized and empowered to collect all arrearages of taxes due from the citizens of said county for the years 1847 and 1848.

2. *Resolved further,* That the sureties to the official bonds of said sheriff executed in the year 1850,

be, and they are hereby authorized to collect from the citizens of said county all arrearages of taxes due for the year 1849: *Provided*, That the authority hereby given shall not extend to persons who have removed from the county, nor to executors or administrators, nor to any person who will make oath before any justice of the peace in said county that the arrears of taxes claimed from him or them have been paid.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

RESOLUTION IN FAVOR OF MATTHEW W. RANSOM.

Resolved by the General Assembly of the State of North Carolina, That Matthew W. Ransom be allowed the sum of three hundred dollars for his services as clerk to the commission to revise and digest the public statute law of the State; and that the public treasurer pay the same, and be allowed that amount in the settlement of his accounts.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

RESOLUTION IN FAVOR OF ROMULUS M. SAUNDERS.

Resolved by the General Assembly of the State of North Carolina, That Romulus M. Saunders be allowed the sum of five hundred dollars for his services in revising and digesting the public statute laws of the State of North Carolina, under an act passed at the last session of the General Assembly, and that the public treasurer pay the same, and be allowed that amount in the settlement of his account.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

RESOLUTION IN FAVOR OF GEORGE W. SCARBOROUGH.

Resolved by the General Assembly of the State of North Carolina, That the public treasurer pay to George W. Scarborough eighty dollars and seventy cents out of any money not otherwise appropriated; it being an amount overpaid in taxes to the sheriff of Wake county for the year 1852; and that the treasurer be allowed the same in the settlement of his public accounts.

[Read three times and ratified in General Assembly,
this 27th day of December, A. D., 1852.]

RESOLUTION IN FAVOR OF WILLIAM THOMPSON AND OTHERS.

Resolved by the General Assembly of the State of North Carolina, That the public treasurer pay William Thompson, of Raleigh, the sum of nine dollars, it being the amount of his account for cabinet work done to the desks and chairs of the House and the Senate.

Also Williams, Haywood & Co., the sum of three dollars and eighty-eight cents, it being for ice furnished as per resolve of this House.

Also W. H. & R. S. Tucker, for articles furnished for the use of the Legislature to the door-keeper, the sum of two hundred and forty-seven dollars and thirty cents, as per bill herewith filed.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

RESOLUTION IN FAVOR OF WALSH AND ASHLEY.

Resolved by the General Assembly of the State of North Carolina, That the public treasurer pay William A. Walsh the sum of five dollars, and William Ashley the sum of two dollars and fifty cents.

[Read three times and ratified in General Assembly, his 27th day of December, A. D., 1852.]

RESOLUTION TO PAY CHARLES SULLY WHEELER TWENTY DOLLARS FOR PREPARING TEN SKELETON MAPS FOR THE LEGISLATURE.

Resolved by the General Assembly of the State of North Carolina, That the public treasurer pay to Charles Sully Wheeler the sum of twenty dollars, for ten skeleton maps furnished to committees on senatorial and congressional districts, done by order of the committee on skeleton maps.

[Read three times and ratified in General Assembly this 4th day of December, A. D., 1852.]

RESOLUTION IN FAVOR OF SAMUEL H. YOUNG AND OTHERS.

Resolved by the General Assembly of the State of North Carolina, That the public treasurer pay to Samuel H. Young the sum of twenty-three dollars and one cent, to L. B. Walker twelve dollars and thirty-seven cents, and to H. Keim twenty-four dollars, and to C. W. D. Hutchings one dollar and twenty-five cents, out of any moneys in the treasury not otherwise appropriated, for the articles furnished the present General Assembly, and that the treasurer be allowed the same in the settlement of his public accounts.

[Read three times and ratified in General Assembly, this 27th day of December, A. D., 1852.]

OFFICE OF SECRETARY OF STATE, }
MARCH 14th, 1853. }

I, WILLIAM HILL, Secretary of the State, in and for the State of North Carolina, do hereby certify that the Acts and Resolutions contained in this pamphlet, are true copies of the original Acts and Resolutions, passed by the General Assembly of this State, at its late sessions.

WILLIAM HILL, *Secretary of State.*

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Not less than ten persons in any county may form a county society to encourage and promote Agriculture &c., 4.

When organized shall have all the powers of a corporation, 5.

Society to be formed by written articles of association, &c., 5.

To be but one such society in each county, 5.

To appoint officers annually, 5.

To adopt by-laws, rules and regulations, &c., 6.

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The secretary to keep a record of the proceedings of the society, 6.

Such record to be read in evidence in any suit, 6.

When duly organized, may receive fifty dollars annually from the public treasurer, provided a like sum shall have been subscribed or paid in to the treasury of such society, 6.

Premiums to be awarded, 6.

A statement of receipts and disbursements, &c., to be transmitted to the treasurer of the State in the month of December of each year, 7.

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Books to be opened on the 17th day of February, 1853, 9.

Books to remain open sixty days, 10.

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One-fifth of each share to be paid at the time of subscribing, another fifth within sixty days, another fifth within one hundred and twenty days, another fifth in three months after the time of paying the third instalment, and the remaining fifth in three months after the time of paying the fourth instalment, 10.

If any subscriber fails to pay any instalments at the time stipulated, interest thereon to be paid, 10.

A discount to be allowed for advanced payment of stock, 11.

When six hundred shares are subscribed and fifteen thousand dollars are paid in, the subscribers become a body politic, &c., 11.

Privileges of the corporation, 11.

If too large an amount of stock is subscribed, the surplus to be reduced, 12.

Books may be kept open twelve months after the sixty days have expired, if necessary, 12.

When six hundred shares are subscribed and fifteen thousand dollars paid in, notice to be given for a meeting of the subscribers, 12.

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- If a majority of votes be present, seven directors shall be elected, 13.
- In every meeting of the stockholders a majority of the whole number of votes is requisite to form a quorum, 13.
- The number of shares requisite to constitute a vote, 13.
- Stockholders may vote by proxy, 13.
- Stockholders alone eligible as directors, 14.
- Seven directors to be appointed annually, 14
- The president to be chosen from the directors, 14.
- Three directors with the president to constitute a board for the transaction of business, 14.
- In case of absence the president may nominate any director to fill his place, 14.
- Vacancies in the board to be filled by the remaining directors, 14.
- Ten stockholders owning three hundred shares may call a general meeting of the stockholders upon twenty days notice, 14.
- Officers to be elected by the directors, who have power to fix compensation, 14.
- The stock of the corporation may be assigned or transferred, 14.
- The corporation may not trade in any thing except bills of exchange, promissory notes, &c., &c., 15.
- The investment in such stock not to exceed one-half of the capital stock of the bank, 15.
- The corporation may not purchase or hold lands, tenements, &c., &c., except as shall be required for the convenient transaction of its business, &c., 15.
- Six per cent. per annum may be received in advance at the time of discount upon bonds, 15.
- The circulation of the bank not to be more than twice the amount of its capital actually paid in, 15.
- Bills obligatory and of credit are assignable, 15
- No note to be issued under the denomination of three dollars, 16.

BANK OF CHARLOTTE, (*Continued.*)

If payment be refused upon any note of the bank, they shall draw interest at the rate of twelve per cent. per annum from the time of said demand, 16.

In case the note shall be presented by and for any bank, payment may be made in notes of the bank making the demand, 16.

Semi-annual dividends may be declared, when the whole amount of stock subscribed shall be paid, 17.

The directors to be responsible in their private capacities in case more than the real profits are divided, 16.

Individual stockholders to be liable to double the amount of their stock, in case of insolvency of the bank, 17.

A statement to be made every six months to the treasurer of State of the amount of capital stock, &c., 17.

The treasurer of the state may inspect such accounts in the books of the bank as relate to said statement, 17.

He may not inspect the accounts of private individuals, except the directors, 17.

The president of the bank to transmit an annual statement, in the first week in December to the General Assembly, showing the condition of the bank, &c., 17.

The penalty for forging, counterfeiting, &c., to be imprisonment, not exceeding ten years, and a fine not exceeding five thousand dollars, 18.

A bonus of twelve and a half cents on each share of the capital stock to be paid annually to the State, 19.

Any officer of the bank making false returns shall be liable to be indicted for a misdemeanor, 19.

Any officer, &c., that may embezzle any of the funds of the bank, shall be deemed guilty of felony, 20.

Charter may be forfeited for a violation of the same, 20.

Cashier to keep a record of the proceedings of the board of directors, 20.

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Shares to be one hundred dollars each, 21.

FARMERS' BANK OF NORTH CAROLINA, (*Continued.*)

Books to be opened on the first day of Feb., 1853, 21.

Books to remain open sixty days, 21.

One-tenth of each share to be paid at the time of subscribing, another tenth within thirty days thereafter, another tenth within sixty days, another tenth within ninety days, another tenth with one hundred and twenty days, and the remainder as the president and directors may direct, 21.

If any subscriber fails to pay any instalment at the time stipulated, interest thereon to be paid, 21.

No dividend to be declared until the whole amount of stock subscribed shall be paid, 22.

When one thousand shares are subscribed and twenty-five thousand dollars paid in, the subscribers become a body politic, 22.

Privileges of the corporation, 22.

When all the shares are taken and twenty-five thousand dollars paid to the commissioners, notice to be given for a meeting of the subscribers, 23.

If a majority of votes be present, five directors to be chosen, 23.

A branch to be established at Greensboro', 23.

Meetings of the stockholders to be held on the first Monday in April in each year, 23.

To constitute a quorum, a majority of the whole number of votes must be present, 24.

A stockholder holding one share and not more than two, to be entitled to one vote; for every two shares above two and not exceeding ten, one vote; for every three shares above ten, not exceeding fifty, one vote; every five shares above fifty-one vote, 24.

After first meeting, no share to confer a right of voting unless it has been holden three months previous to the day of voting, 24.

Stockholders may vote by proxy. 24.

No officer of the bank is permitted to vote as proxy for another, 24.

FARMERS' BANK OF NORTH CAROLINA, (*Continued.*)

A director must be a stockholder and citizen of the State, 24.

The president to be chosen by the directors from their number, 24.

Compensation to the president and directors to be fixed by the stockholders, 24.

Three directors, with the president, to constitute a board for the transaction of business, 24.

The president may nominate any director to supply his place in case of absence, 24.

Ten stockholders, owning one thousand shares or more, may call a meeting of the stockholders, 24.

The officers of the bank to be elected annually by the directors, 24.

The officers to give bonds of ten thousand dollars for the faithful performance of duty, 25.

The cashier to keep a book to record the proceedings of the board, 25.

The corporation may not hold lands, tenements, &c., except as shall be required for the transaction of business, &c., 25.

The corporation may not trade in any thing except bills of exchange, &c., 25.

The investment in such stock, not to exceed one-half the amount of the capital stock of the bank, 26.

Six per cent. per annum, may be received in advance at the time of discount upon bonds, &c., 26.

Total amount of debts of the corporation, not to exceed twice the amount of the stock paid in, 26.

Vacancies in the directory to be filled by the remaining directors, 26.

The stock assignable, 26.

A statement of the amount of stock, &c., to be furnished to the treasurer of state every six months, 26.

The treasurer of state may inspect such accounts in the books of the bank as relate to the said statement, 26.

He may not inspect the accounts of any private individual, except of the directors, 26.

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Books to be kept open until all the stock is taken in, 27.

If a director or other officer of the bank shall embezzle any of the funds of the bank he shall be deemed guilty of felony, 28.

Counterfeiting declared felony, 28.

A bonus of twenty-five cents on each share to be paid to the State, 29.

Semi-annual dividends may be declared, 29.

Annual statement to be transmitted to the General Assembly in December of each year, 29.

Any officer making false returns, liable to be indicted for misdemeanor, 29.

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One-fifth of each share to be paid at the time of subscribing, another fifth within sixty days thereafter, another fifth within one hundred and twenty days thereafter, another fifth within three months after the time of paying the third instalment, and the remaining fifth within three months after the time of paying the fourth instalment, 34.

If any subscriber fails to pay any instalment when due, six per cent. interest to be charged, 34.

When six hundred shares are subscribed and fifteen thousand dollars actually paid in, the subscribers become a body politic, &c., 34.

Charter continues in force twenty-eight years, 35.

Privileges of the corporation specified, 35.

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No subscriptions of two shares, or under, to be scaled until all larger subscriptions are reduced to an equality with them, 35.

Books may remain open longer than sixty days, 35.

When three hundred shares are taken and fifteen thousand dollars paid in, notice to be given for a meeting of the subscribers, 36.

If a majority of votes be present, seven directors to be elected, 36.

A meeting of the stockholders cannot be had unless a majority of the whole number of votes be present, 37.

A stockholder holding one share and not more than two to be entitled to one vote; for every two shares above two and not exceeding ten, one vote; for every three shares from ten to forty, one vote; for

BANK OF YANCEYVILLE, (*Continued.*)

every six shares from forty to one hundred, one vote; for every ten shares from one hundred to two hundred one vote, and for every twenty shares above two hundred one vote, 37.

After the first meeting, shares must have been holden three months previous to the time of voting, to confer the right of voting, 37.

Stockholders may vote by proxy, 37.

A director must be a citizen of the State and a stockholder, 37.

The directors to choose a president from their own body, 37.

Three directors, including the president constitute a quorum, 37.

President may nominate in writing any director to fill his place, in case of absence, 37.

Vacancies in the board to be filled by the remaining directors until the annual meeting, 38.

Ten stockholders, owning at least three hundred shares may call a general meeting of the stockholders at any time, 38.

The directors to elect the necessary officers, 38.

The officers to give bond and security, 38.

Compensation of officers to be fixed by the directors, 38.

Compensation of the president and directors to be fixed by the stockholders, 38.

The stock may be assigned and transferred, 38.

The corporation may not trade in any thing except bills of exchange, &c., 38.

The investment not to exceed one-half the capital stock of the bank, 38.

Six per cent. per annum may be received in advance at the time of discount upon bonds, &c., 39.

The bank may not have in circulation at one time more than twice the amount of its capital actually paid in, 39.

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Refusal to pay a note, when presented, entitles said note to draw twelve per cent. interest, 40.

Holders of such notes may bring an action of assumpsit against any director who has consented to issue more than twice the stock paid in, 40.

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Semi-annual dividends may be declared, 40.

No dividend to be declared until the whole amount of stock subscribed is paid in, 41.

If more than the real profits are divided, assenting directors are responsible to creditors, 41.

In case of insolvency, individual stockholders are liable to double the amount of their stock, 41.

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Treasurer of State may inspect the general accounts in the books of the banks, 41.

He may not inspect accounts of private individuals, 41.

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Any officer, &c., of the bank being guilty of embezzlement of the funds, &c., to be deemed guilty of felony and punished by fine and imprisonment, 43.

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The corporate title to be "The New River Canal Company," 51.

Capital stock of the company not to exceed fifty thousand dollars, 51.

Shares to be twenty-five dollars each, 51.

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A general meeting of the stockholders may be called when five thousand dollars shall have been subscribed, 51.

The officers of the company may agree with the owners of land through which the canal may pass, for the purchase thereof, 51.

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To hold his office for two years, 59.

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The first superintendent for the State to collect information in regard to the common schools—to consult with experienced teachers,—to collect statistics, &c,—to report to the Governor of the State on or before the third Monday in November 1854, 61.

The superintendent to superintend the operations of the system of common schools, and see that the laws in relation to them are enforced—to see that returns are made by the boards of county superintendents—to see that the school funds are not misapplied—to see that proper actions provided for by law are brought against officers and agents of the system who are liable to the same—and to look after escheated property and have it sold, 62.

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- (2.) The second district shall be composed of the counties of Hyde, Beaufort, Pitt, Craven, Jones, Lenoir, Wayne, Greene, Edgecombe, Onslow and Carteret.
- (3.) The third district shall be composed of the counties of New Hanover, Brunswick, Columbus, Bladen, Sampson, Cumberland, Robeson, Duplin and Richmond.
- (4.) The fourth district shall be composed of the counties of Wake, Franklin, Warren, Granville, Orange, Nash and Johnson.
- (5.) The fifth district shall be composed of the counties of Person, Caswell, Alamance, Chatham, Randolph, Guilford, Moore and Montgomery.
- (6.) The sixth district shall be composed of the counties of Stokes, Forsythe, Rockingham, Davidson, Davie, Yadkin, Surry, Iredell, Alexander and Ashe.
- (7.) The seventh district shall be composed of the counties of Catawba, Gaston, Lincoln, Mecklenburg, Rowan, Cabarrus, Union, Anson, Stanly and Cleveland.
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An act to continue the commission to revise and digest the public laws of the State, 134.

Asa Biggs and Bartholomew F. Moore, Esqr's, appointed commissioners, 134.

Directed to report the laws on printed sheets when digested, 134.

Commissioners authorized to contract for printing, 134.

Governor authorized to appoint Hon. Thomas Ruffin an additional commissioner, 134.

Governor authorized to fill vacancies, 134.

Commissioners may employ a clerk, at a compensation not exceeding three hundred dollars, 135.

So much of act of the last session as is inconsistent with this, repealed, 135.

Commissioners to consider the propriety of reporting bills to abolish the forms of proceedings in civil practice, and providing a new system, 135.

LEGACIES.

An Act to amend the 1st section of the 64th chapter of the Revised Statutes, 136.

So amended that hereafter when any person dies intestate, leaving a widow, but no children or grandchildren, one-half of his or her estate shall be allotted to the widow, and the residue distributed as now directed, 136.

Conflicting laws repealed, 136.

LUNATICS.

An Act to amend an act passed at the session of 1848-49, entitled "An act to provide for the establishment of a State Hospital for the Insane in North Carolina, and an act supplemental to the same," 137.

Name changed from State Hospital for the Insane in North Carolina, to that of Lunatic Asylum for the the State of North Carolina, 137.

So much of the 6th section of said act as requires the superintending physician to reside constantly in the Asylum repealed, 137.

Commissioners to appoint medical superintendent, 137.

Superintending physician to take charge of the building, superintend its construction, &c., 137.

Superintendent to hold his office two years, and to enter into bond with two or more sureties, in the sum of five thousand dollars, 138.

Salary of superintendent to be \$1,200 per annum, 138.

Liable to be removed if he shall not faithfully perform his duty, 138.

Governor and council to fill vacancies, 138.

Requisitions for money to be signed and approved by superintendent and two or more commissioners, 138.

Second section of act supplemental to the act to provide for the establishment of said Asylum, amended so as to require the construction of said Asylum within three miles, but not in the city of Raleigh, 139.

Fifth section of act of 1848-49, re-enacted, but to be in force for three years only, 139.

LUNATICS, (*Continued.*)

An act to amend an act of 1848-9, chapter 57, entitled "An act to confer on courts certain powers over imprisoned lunatics, 140.

Upon suggestion to any court that any person charged with a criminal offence is *non compos*, said court shall empanell a jury to inquire into the truth of said suggestion, 140.

If the jury find such person *non compos*, said court may cause him to be removed to some hospital, if he is insolvent, 140.

The said courts may appropriate money from the county funds, sufficient for the removal and maintenance of said insane person, and to that end may levy taxes as taxes are now levied, 140.

It may be lawful for said courts upon application, to order the return of said insane person, for the purpose of determining whether insanity continues to exist; or in order that he or she may be removed to some other asylum, 141.

Proceedings had under this act shall not affect any bill of indictment pending, 141.

MATRIMONY.

An act to declare what persons may intermarry, 142.

All marriages contracted between persons nearer of kin than first cousins shall be void, 142.

MACON COUNTY,

Authorized to abolish jury trials in county court, 126.

Titles to land entered previous to March 1852, perfected, 133.

MADISON COUNTY,

Act in relation to common schools in, 67.

Road established, 583.

MARSHAL,

Commissioners appointed to locate the town, &c., 53.

MCDOWELL AND YANCEY TURNPIKE COMPANY.

Charter amended, 603.

MECHANIC ARTS.

Act to encourage, 4.

MESNE CONVEYANCES.

Time for registering extended, 572.

MEETING OF ASSEMBLY.

An act to repeal, in part, the 25th section of the 52d chapter of the Revised Statutes, 142.

So much of said section and chapter as requires a biennial meeting of the General Assembly on the third Monday in November, 1852, repealed, 143.

An act to appoint the time of the meeting of the General Assembly, 143.

Meeting of the General Assembly shall be biennially on the third Monday in November, 143.

MILITIA.

An act to repeal the 85th chapter of (Revised) Statute, passed by the General Assembly at its session of 1850-'51, 144.

Chapter repealed provided a majority of the commissioned officers of the regiment which it concerns vote against the division of the regiment, 144.

An act concerning the militia of Rutherford county, 145.

The three regiments of said county shall be divided, 145.

The colonels shall call a convention of officers for the purpose of making said division, provided a majority shall think proper to order it, 145.

Regiment in the south part of the county to be numbered and known as the 76th, that in the north part as the 77th regiment, 145.

An act to incorporate the Hawfields Volunteer Regiment, in the county of Orange, 146.

Fines to be recovered in the same manner as militia fines, 146.

MINING AND MANUFACTURES.

An act to encourage the investment of capital for mining and manufacturing purposes, 147.

Lawful for any number of persons, not less than five, to become incorporated, 147.

MINING AND MANUFACTURES, (*Continued.*)

Such persons shall, by articles of agreement to be recorded in the clerk's office of the county in which such mining is to be conducted or manufacturing established, state as follows, viz: The corporate name; the business proposed to be carried on, and where at; amount of capital; number of shares and amount of each not less than fifty dollars; the length of time not exceeding ninety years; names of subscribers, number of shares taken and amount paid in cash, 147.

Money to be paid, not less than one dollar on each share, nor in the whole not less than one hundred dollars, 147.

Money to be paid to clerk of the county court, whose certificate of payment shall be endorsed on said articles of agreement, 148.

Governor to issue letters patent on the filing of said articles in the office of the Secretary of State, 148.

Notice, embodying substance of said articles to be published, 148.

By virtue of said letters patent said persons shall become a corporation, and have all the powers, and be subject to all liabilities in chapter 26, revised statutes, 148.

Except that the time therein allowed is extended to 90 years, 149.

Not lawful to declare dividends when in debt, 149.

Duty of any company to make an annual exhibit, under oath, to be filed in the county clerk's office, 149.

Exhibit subject to public inspection, 149.

Clerk to pay money over to the proper officer of the company whenever it is actually organized, 149.

Letters patent to be deemed *prima facie* evidence of incorporation and have the effect of an act of incorporation, 149.

Secretary of State to record such letters patent, and copies under his hand to be admitted as evidence, 150.

MINING AND MANUFACTURES, (*Continued.*)

No corporation constituted under this act to engage in banking, 150.

Any company formed under this act, to pay clerks fees of \$2—expenses of publication, and be subject to the revenue laws of this State, 150.

MILTON PLANK ROAD COMPANY,

Act of incorporation, 182.

NAVIGATION.

An act to legalize the transfer of the rights of the Cape Fear River above the mouth of Cross Creek, and for other purposes, 151.

Tenth section of the act of 1812 repealed, and Cape Fear Navigation Company to make biennial returns to the board of internal improvements as heretofore, 152.

An act to amend an act (and supplemental thereto) entitled "An act to improve the Cape Fear and Deep Rivers above Fayetteville, 152.

Authority to increase the capital stock of the Cape Fear and Deep River Navigation Company to three hundred and fifty thousand dollars, 153.

Governor authorized to subscribe forty thousand dollars on behalf of the State; forty thousand to be first subscribed by individuals in one hundred dollar shares, 153.

Whenever twenty thousand dollars has been paid by individuals, the treasurer of the State may pay forty thousand; whenever the further sum of ten thousand dollars is paid by individuals, treasurer is authorized to pay twenty thousand more; and when individuals pay ten thousand more, the State treasurer is required to pay the remaining sum of twenty thousand dollars of the State subscription, 153.

Individuals who have heretofore advanced money for the company allowed to subscribe the amount of their claims, 154.

Board of commissioners to be constituted, one appointed by the governor and one by the stockholders, 154.

NAVIGATION, (*Continued.*)

Duty of commissioners to examine claims, &c., 154.

Authority to increase capital stock to three hundred and fifty thousand dollars, either by procuring subscriptions or issuing bonds, 154.

Authority to pledge property of the company for the redemption of bonds, 155.

Whenever eighty thousand dollars have been subscribed, the governor may appoint three directors and individual stockholders three, 155.

No money to be paid until the work is let out and bonds executed by contractors, 155.

Cross Creek lock and dam to be first completed; then Jones' Fall; then Silver Run and then Red Rock lock and dam, 155.

Treasurer not to pay second instalment until the governor and treasurer are satisfied that appropriation has been properly expended, 156.

An act to amend the charter of the Neuse River Navigation Company, 156.

So amended as to authorize increase of capital to four hundred thousand dollars, 156.

Authority to issue and dispose of seven per cent. bonds, 156.

State not liable for redemption of bonds beyond the amount of her stock, 157.

An act to extend the powers of the commissioners of navigation for the port of Washington, 158.

Lawful for commissioners to require vessels to perform quarantine, 158.

Upon judgment against any master his vessel may be levied on and sold, 158.

An act to amend an act entitled "An act to incorporate the Yadkin Navigation Company," 159.

Authority to open books, and when twenty-five thousand dollars have been subscribed, and five dollars per share paid, the company shall be regarded as formed, 159.

Repeal of conflicting acts, 159.

NASH COUNTY.

Act to pay tales jurors, 125.

NAT MOORE AND WHITE OAK NAVIGATION COMPANY,

Act of incorporation, 471.

NEGROES.

An act to prevent the stealing, taking or carrying away of slaves, 160.

Any person so offending shall be deemed guilty of a felony, and, on conviction, suffer *death*, without the benefit of clergy, 160.

Not necessary to set out, in an indictment, how or with whom was the possession, direction or control of the slave or slaves at the time of the commission of the offence, 160.

Act to be in force from 1st of February 1853, 161.

NEUSE RIVER NAVIGATION COMPANY,

Charter amended, 156.

NEUSE RIVER AND SNOW HILL PLANK ROAD COMPANY,

Act of incorporation, 343.

NEWBERN,

Act concerning a depot of arms amended, 109.

NEW HANOVER COUNTY,

Authorized to hold superior court for two weeks, 89.

NORMAL COLLEGE.

An act to amend an act entitled "An act to incorporate Union Institute, in Randolph county, a Normal College, 161.

Names of trustees, 161.

Governor of the State to be *Ex-officio* president, and common school superintendent *Ex-officio* secretary of the board of trustees, 162.

Vacancies to be filled by a majority of the trustees, 162.

Trustees to fix times of meeting, appoint a president, professors, and an executive committee of seven persons, 162.

NORMAL COLLEGE, (*Continued.*)

Executive committee to fix salaries, &c., 162.

Faculty shall have power to grant certificates, which shall exempt the bearer from examination by county committees, 162.

Power to grant degrees, &c., 163.

Secretary of the board to make a report within ten days after the meeting of each legislature, 163.

President and directors of literary fund authorized to pay trustees the sum of ten thousand dollars, 163.

NON-RESIDENT DEBTORS.

Act to facilitate the recovery of debts from, 105.

NORTH CAROLINA RAILROAD COMPANY.

Charter amended, 523.

NORTH CAROLINA AND WESTERN RAILROAD COMPANY.

Act of incorporation, 484.

NORTH CAROLINA STEAM CARRIAGE AND PLANK ROAD COMPANY.

Act of incorporation, 352.

NORTHAMPTON COUNTY.

Act to pay tales jurors, 123.

OBSTRUCTIONS TO THE PASSAGE OF FISH.

An act to prevent the obstruction of the passage of fish in the waters of Blount's Creek and its tributary streams, 164.

Unlawful to haul^s sein or draw net between sunset and 5 o'clock, A. M., 164.

Unlawful to lay sein or net longer than two hours, from the 1st of March to May 15th, or place any obstructions in said stream, 164.

Penalty for violation of this act \$50, if a free person; a slave to receive thirty-nine lashes, 165.

ON SLOW COUNTY.

Act to pay tales jurors, 124.

ORANGE COUNTY.

Act to pay tales jurors, 123.

PARTNERSHIP DEBTS.

The collection of, 108.

PASQUOTANK COUNTY.

Act concerning county court repealed, 90.

PERSONAL LIBERTY.

An act to amend the 55th chapter of the Revised Statutes, entitled "An act for the better security of personal liberty," 165.

Any party to a writ of *habeas corpus* may procure the attendance of witnesses by subpœnas, 165.

Judge who may determine such writ, may decide by whom the costs shall be paid, &c., 166.

PERSONAL PROPERTY.

An act to protect the rights of persons owning property in common, 166.

When one or more owners is debarred by the statute of limitation, the other joint owner or owners may prosecute suits for injury done to the common property, without joining the name of the other owners, 167.

Jury shall apportion damages according to the interest or interests of the plaintiff or plaintiffs, 167.

PERQUIMANS COUNTY.

Court authorized to sell public square, 91.

PEDEE PLANK ROAD COMPANY.

Act of incorporation, 354.

POWERS OF ATTORNEY.

Time for registering extended, 572.

PLANK ROADS.

An act to define the duties and powers of turnpike and plank road companies, 167.

The dwelling-house, yard, kitchen, garden or burial ground of no person may be condemned for a turnpike or plank road without the consent of the owner, 168.

Ornamental trees may not be cut down, 168.

Not more than sixty feet in width may be condemned for the use of a turnpike or plank road, 168.

Not more than two acres at any one place to be condemned for the erection of a depot, &c., 168.

PLANK ROADS, (*Continued.*)

- Five days' notice to be given by the sheriff to both parties, when called on to condemn land, and the jury to be summoned at least five days previous, 168.
- Jurors to be compelled to attend under the same penalties as now require their attendance at court, 168.
- Jurors to receive the same compensation they are entitled to in their several counties, 168.
- Sheriff to receive twenty-five cents for every notice and summons, 168.
- Appeal may be taken from the decision of the jury to the county or superior courts, 168.
- Damages assessed for condemnation and costs incident to the same to be paid by the corporation, at whose instance it is done, 168.
- Judgment for the damages and costs may be rendered by any justice of the peace, 169.
- Each turnpike and plank road company must furnish to the governor of the State a correct map and profile of each road, drawn to a scale of four hundred feet to an inch, 169.
- Any company failing to furnish such map to forfeit one hundred dollars to the State treasury, 169.
- The provisions of this act to apply to each turnpike or plank road company incorporated during the present General Assembly and to all hereafter incorporated, 169.
- An act to amend the charter of the Asheville and Greenville Plank Road Company, 170.*
- The company may use plank, rock or any other material for making any part of the road on the French Broad River, 170.
- The width may be increased to sixteen feet in any portion of the road south of Hendersonville, 170.
- The direction of the road may be changed so as to go in the direction of Spartansburg, by any route the company may prefer, 170.

PLANK ROADS, (*Continued.*)

An act to incorporatre the Ashborough and Salisbury Plank Road Company, 171.

Capital stock sixty thousand dollars, 171.

Shares fifty dollars each, 171.

Books to be opened in Randolph, Davidson, Rowan and other places, 171.

The times and places of receiving subscriptions to be advertised in one or more newspapers in Salisbury, 172.

Books not to be closed within ten days after the opening, 172.

Commissioners may open books from time to time as they see fit, 172.

When twenty thousand dollars are subscribed for the company becomes a body corporate, and may enjoy all the privileges of other corporate bodies, 172.

One dollar must be paid on each share at the time of subscribing, 172.

The commissioners to pay over the moneys received by them to the board of directors forthwith, after the first election, 173.

When twenty thousand dollars are subscribed a general meeting of the stockholders to be called, 173.

A majority of the votes which could be given upon all the shares subscribed are requisite to constitute a meeting, 173.

Nine directors to be elected annually, 174.

A president to be appointed by the directors from their body, 174.

Vacancies may be supplied by the board of directors until the next annual meeting, 174.

The board of directors invested with all the rights and powers necessary for the construction, &c. of the road, 174.

Directors may advance money on contracts as the wants of the company may demand, 174.

They may call a general meeting of the stockholders upon one month's notice, 175.

PLANK ROADS, (*Continued.*)

- They may appoint the necessary officers, 175.
- The stockholders may pay any part or the whole of their subscription in cash, or in work at cash valuation 175.
- If a stockholder fails to pay the sum required within one month after it is called for the stock may be sold, and any loss upon the stock to be recovered of the stockholder failing to pay, 175.
- The capital stock of the company may be increased to three hundred thousand dollars, 175.
- Land over which the road is to pass, may be condemned by a jury of twelve freeholders, 176.
- No portion of any dwelling-house, yard, kitchen, garden or burial-ground may be condemned without the owner's consent, 176.
- Not more than two acres of land may be condemned without the owner's consent, for toll-houses, &c., 177.
- A reasonable toll to be received, 178.
- The road to be not less than eight nor more than sixty feet wide, 178.
- Tolls may be collected when five miles in extent of the road is completed, 178.
- Upon refusal of any person to pay toll, the toll-gatherers may refuse a passage, 178.
- If a person shall pass or drive through a toll-gate without paying, a fine of five dollars may be recovered, by warrant before a justice of the peace, 178.
- If any person use any part of the road between toll-gates without paying the amount for which he may be liable, a fine of five dollars may be recovered in like manner, 178.
- Any person wilfully injuring the road is subject, upon conviction, to fine or imprisonment, 179.
- Accounts of the proceedings and disbursements must be made at the annual meetings of stockholders, 179.

PLANK ROADS, (*Continued.*)

Stockholders, holding one-fourth of the capital stock, may demand of the directors a general meeting of the stockholders, at which a report of proceedings and disbursements shall be made, 179.

In crossing any established road, the passage of persons or property must not be impeded, 179.

If necessary, any part of an established road may be changed or substituted for the convenience of the plank road, 179.

Previous to making the change or substitution, the company must make a road equally good with the road proposed to be taken, 180.

The charter to continue for thirty years, 180.

An act to incorporate the Caswell Plank Road Company, 18.

Capital stock fifty thousand dollars, 181.

Shares fifty dollars each, 181.

The road to be constructed from Yanceyville to some point on the Virginia line near Danville, 181.

The company may construct a plank road from Yanceyville to Mount Ararat, or from Yanceyville to Milton, 181.

If a sufficient sum is not subscribed to construct the road from Yanceyville to the Virginia line, and the road to Milton, and the road to Mount Ararat, then books may be opened to receive subscriptions for constructing a road from Yanceyville to the Virginia line near Danville, to be called the Yanceyville plank road." 182.

If a sufficient sum is not subscribed to construct the Caswell plank road, then books may be opened to receive subscriptions to construct a road from Yanceyville to Mount Ararat, 182.

When the sum of fifteen thousand dollars is subscribed, the subscribers are incorporated under the name of the "Southside Plank Road Company," 182.

If a sufficient sum is not subscribed to construct the Caswell plank road, books may be opened to receive subscriptions for a plank road from Yanceyville to Milton, 182.

PLANK ROADS, (*Continued.*)

When eight thousand dollars is subscribed, the company shall be incorporated under the name of the "Milton Plank Road Company," 182.

The times and places for receiving subscriptions must be advertised in Yanceyville, 183.

Books to remain open thirty days, and may be re-opened from time to time, 183.

When thirty thousand dollars shall be subscribed, the subscribers become incorporated by the name of the "Caswell Plank Road Company," 183.

One dollar to be paid on each share at the time of subscribing, 183.

The residue to be paid as the directors may require, 184.

The commissioners to pay over the money collected to the directors after their election, 184.

A general meeting may be called when twelve thousand dollars have been subscribed, 184.

A majority of all the votes which could be given upon all the shares subscribed, required to form a quorum, 184.

A president and nine directors to be elected by the stockholders at every annual meeting, 184.

The president and directors, or any of them, may be removed, or any vacancy filled by a majority of the votes given at any general meeting, 185.

The president and three directors, or, in the absence of the president, five directors may constitute a quorum, 185.

Vacancies in the board may be filled by the appointment of the board until next annual meeting of the stockholders, 185.

The president and directors invested with the usual rights and privileges, 185.

President and directors may make contracts, &c., 185.

President and directors may call a general meeting of the stockholders, 185.

PLANK ROADS, (*Continued.*)

- President and directors to appoint a treasurer from among the stockholders, 185.
- President and directors may appoint all necessary officers, 185.
- If stock shall not be paid for, it may be sold, &c., 186.
- Capital stock may be increased, 187.
- How lands may be condemned for the use of the company, 187.
- Duty of the freeholders in assessing damages, 188.
- Appeal may be taken to the county or superior court, 188.
- The dwelling-house, kitchen, yard, garden or burial-ground of any person may not be condemned, 188.
- Ornamental trees may not be cut down by the company, 188.
- In summoning a jury to assess the value of land, five days' notice to be given, 188.
- Sheriff entitled to a fee of seventy-five cents for each notice, and thirty cents for summoning each juror, to be paid by the company, 188.
- Costs incidental to the condemnation of land, to be paid by the company, 189.
- How land for the erection of buildings, &c. may be obtained, 189.
- Not more than two acres may be condemned at any one station, without owner's consent, 189.
- When five miles of the road are completed, toll may be demanded, 189.
- The profits of the company may not exceed twenty-five per cent. in any one year, 189.
- The road must be sixty feet wide, 190.
- Penalty in case of refusing to pay toll, 190.
- A report of proceedings and disbursements to be made to the stockholders at their annual meeting, 190.
- Penalty for injury to the road, 190.
- Proceedings in case of intersection with another road, 191.
- Charter to continue thirty years, 191.

PLANK ROADS, (*Continued.*)

An act to incorporate the Chapel Hill and Durhamville Plank Road Company, 192.

Books to be opened, 192.

Capital, twenty thousand dollars, 192.

Shares, fifty dollars each, 192.

Books to be kept open until all the stock is taken, 192.

Style of the corporation, 192.

One dollar to be paid on each share at the time of subscribing, 192.

Commissioners to pay over moneys, &c., 193.

General meeting to be called when five thousand dollars shall have been subscribed, 193.

What number of shares to constitute a meeting, 193.

President and directors to be elected by the stockholders, 193.

The president and two directors, or in case of the absence of the president, three directors, to form a quorum, 193.

Vacancies in the board may be filled by the appointment of the directors until next annual meeting, 194.

President and directors invested with all the rights and powers necessary for the construction of the road, 194.

President and directors may make contracts, 194.

May appoint a treasurer and other officers, 194.

Stock may be sold in default of payment, 194.

How the company may have land condemned for the use of the road, 195.

The dwelling house, kitchen, yard, garden, or burial ground of no person may be condemned, 195.

How land for toll-houses may be obtained, 196.

Toll to be so regulated that the profits shall not exceed twenty per cent. in any one year, 196.

The road must not be less than ten or more than sixty feet wide, 196.

When two miles are constructed, a toll-gate may be erected, 196.

PLANK ROADS, (*Continued.*)

Penalty for refusing to pay toll, 196.

Penalty for injury done to the road, 197.

President and directors to render accounts of their proceedings to the annual meeting, 197.

Proceedings in case of intersection with other roads, 197.

An act to incorporate the Charlotte, North Carolina, and Cheraw, South Carolina, Plank Road Company.

Books may be opened, 198.

Capital one hundred and fifty thousand dollars, in shares of fifty dollars each, 199.

Books may be kept open from time to time, 199.

Company incorporated, its name and style, 199.

One dollar to be paid on each subscription, at the time of subscribing, 200.

Moneys to be paid over to the directors after the first election, 200.

Notice to be given when ten thousand dollars have been subscribed, and a general meeting of the stockholders called, 200.

How such meeting shall be constituted, 200.

Nine directors to be elected at the general meeting, 201.

A president to be chosen by the directors from their body, 201.

Vacancies in the board to be filled by the directors until next annual meeting, 201.

Rights and powers of directors, 201.

They may make contracts, &c., 202.

May appoint officers and agents, 202.

May call a general meeting giving one month's notice, 202.

Proceedings in case of a stockholder's failing to pay, 202.

How lands for the location of the road may be obtained, 203.

Dwelling house, &c., not to be invaded, 204.

Five days' notice to be given to land owners when land is to be condemned, 204.

PLANK ROADS, (*Continued.*)

Costs to be paid by the company, 204.

How land for toll-houses may be obtained, 204.

Not more than two acres may be condemned, 204.

Toll to be so regulated that the profits shall not exceed twenty per cent. in any one year, 205.

Road must not be less than eight or more than sixty feet wide, 205.

When five miles are constructed toll may be demanded, 205.

Penalty for refusing to pay toll, 205.

Penalty for injuring the road, 206.

Annual report to be made to the stockholders, 206.

A general meeting of the stockholders may be called by stockholders holding one-fourth of the capital, 206.

Proceedings in case of intersection with other roads, 206.

Charter to continue for thirty years, 207.

An act to amend an act passed at the session of the General Assembly of 1850-51, entitled "An act to incorporate the Anson Plank Road Company," 208.

The company may extend their road to the town of Salisbury, 208.

Capital stock one hundred and fifty thousand dollars, 208.

Books to be opened for additional stock, 208.

Dividends of twenty-five per cent. may be declared, 208.

Anson Plank Road Company may be united with the Cheraw and Anson Plank Road Company, 208.

An act to incorporate the Concord and Anson Plank Road Company, 209.

Books to be opened, 209.

Capital eighty thousand dollars, in shares of fifty dollars, 209.

Books may be kept open from time to time, 209.

Company incorporated—its name and style, 210.

One dollar to be paid on each subscription at the time of subscribing, 210.

Moneys to be paid over to the directors after the first election, 210.

PLANK ROADS, (*Continued.*)

Notice to be given when fifteen thousand dollars have been subscribed, and a general meeting of the stockholders called, 211.

How such meeting shall be constituted, 211.

Nine directors to be elected at the general meeting, 211.

A president to be chosen by the directors from their body, 211.

Vacancies, how filled, 212.

Rights and powers of directors, 212.

President and directors may make contracts, 212.

May appoint officers and agents, 212.

If stock shall not be paid for, it may be sold, 213.

How lands for the location of the road may be obtained, 213.

Duties of the freeholders in assessing damages, 214.

Freeholders to make report to court, 214.

Upon the reports being confirmed and the damages paid, the land shall be vested in the company, 214.

No dwelling-house, kitchen, garden or yard of any person shall be condemned, 214.

Either party may take an appeal from the decision of the freeholders, 214.

Five days notice to be given in case of assessment of damages, 214.

Sheriff to be allowed seventy-five cents for such notice 215.

Costs incident to the condemnation of land to be paid by the company, 215.

How lands for toll-houses may be obtained, 215.

Not more than two acres may be condemned. 215.

Toll to be so regulated that the profits shall not exceed twenty-five per cent. in any one year, 215.

Road may not be less than eight nor more than sixty feet wide, 216.

Penalty for refusing to pay toll, 216.

Penalty for injuring the road, 216.

PLANK ROADS, (*Continued*)

Annual report to be made to the stockholders, 217.

A general meeting of the stockholders may be called by stockholders holding one-fourth of the capital stock, 217.

Proceedings in case of intersection with other roads, 217.

Charter to continue for thirty years, 218.

An act to incorporate the Chapel Hill and Raleigh Plank Road Company, 218.

Books to be opened, 218.

Capital forty thousand dollars, in shares of fifty dollars, 219.

Books may be kept open from time to time, 219.

Company incorporated, its name and style, 219.

One dollar to be paid on each subscription at the time of subscribing, 219.

Moneys to be paid over to the directors, 219.

Notice to be given when ten thousand dollars have been subscribed, and a general meeting of the stockholders called, 219.

How such meeting shall be constituted, 219.

A president and five directors to be elected at the general meeting, 220.

Vacancies, how filled, 220.

Rights and powers of directors, 220.

President and directors may make contracts, 220.

May appoint officers and agents, 221.

If stock shall not be paid for, it may be sold, 221.

How lands for the location of the road may be obtained, 221.

Duties of the freeholders in assessing damages, 221.

Freeholders to make report to court, 221.

Upon the reports being confirmed and the damages paid, the land shall be vested in the company, 221.

No dwelling-house, kitchen, garden, burial ground or yard of any person shall be condemned, 222.

Either party may take an appeal from the decision of the freeholders, 222.

PLANK ROADS, (*Continued.*)

How lands for toll-houses may be obtained, 222.

Toll to be so regulated that the profits shall not exceed twenty per cent. in any one year, 222.

Road may not be less than eight nor more than sixty feet wide, 222.

Toll-gate may be erected when ten miles have been constructed, 223.

Penalty for refusing to pay toll, 223.

Penalty for injuring the road, 223.

Annual report to be made to the stockholders, 223.

Proceedings in case of intersection with other roads, 223.

A general meeting of the stockholders may be called by stockholders holding one-fourth of the capital stock, 224.

Company may make the terminus of the road so far only as the depot on the North Carolina Railroad, at or near Jeremiah Morriss', 224.

An act to incorporate the Duplin Plank Road Company, 225.

Company incorporated, its name and style, 225.

Capital twenty thousand dollars, in shares of fifty dollars, 225.

General meeting may be called, ten days' notice having been given, 226.

How such meeting shall be constituted, 226.

President and five directors to be elected at the general meeting, 226.

Vacancies, how filled, 227.

Rights and powers of directors, 227.

President and directors may make contracts, 227.

May appoint officers and agents, 227.

If stock shall not be paid for, it may be sold, 228.

How lands for the location of the road may be obtained, 228.

Duties of the freeholders in assessing damages, 228.

Freeholders to make report to court, 229.

PLANK ROADS, (*Continued.*)

Upon the reports being confirmed and the damages paid,
the land shall be vested in the company, 229.

How lands for toll-houses may be obtained, 229.

Not more than five acres may be condemned, 229.

When five miles have been completed, a toll-gate may be
erected, 229.

Road may not be less than eight nor more than forty
feet wide, 230.

Toll to be so regulated that the profits shall not exceed
twenty per cent. in any one year, 230.

Penalty for refusing to pay toll, 230.

Penalty for injuring the road, 230.

Proceedings in case of intersection with other roads, 230.

Charter to continue for fifty years, 231.

*An act to amend an act passed by the General Assembly at
the session of 1850-51, entitled "An act" to incorporate
"The Fayetteville and Centre Plank Road Compa-
ny,"* 232.

The company may change the terminus of their road
from Centre to such other place in the county of
Stanly as they may deem necessary, 232.

*An act to incorporate the Fayetteville and Raleigh Plank
Road Company,* 233.

Books to opened, 233.

Capital two hundred thousand dollars, in shares of twen-
ty-five dollars, 233.

Direction the road may take, 234.

General meeting may be called when deemed expedient,
234.

How such meeting shall be constituted, 234.

Seven directors to be elected at the general meeting, 234.

A president to be chosen by the directors from their
body, 234.

Vacancies, how filled, 235.

President and directors may make contracts, 235.

May appoint officers and agents, 235.

If stock shall not be paid for, it may be sold, 235.

PLANK ROADS, (*Continued.*)

How lands for the location of the road may be obtained, 236.

Duties of the freeholders in assessing damages, 236.

Freeholders to make a report to court, 236.

Upon the reports being confirmed and the damages paid, the land shall be vested in the company, 237.

The corporation to be subject to the provisions of an act passed in 1850-'51, chapter CLIII, 237.

How lands for toll-houses may be obtained, 237.

Not more than two acres may be condemned, 237.

When five miles are completed toll may be demanded, 237.

Company may erect toll-bridges, 238.

Toll to be so regulated that the profits shall not exceed twenty-five per cent. in any one year, 238.

Road may not be less than eight nor more than sixty feet wide, 238.

Penalty for refusing to pay toll, 238.

Penalty for injuring the road, 238.

Annual report to be made to the stockholders, 239.

Authority to establish branches, 239.

Proceedings in case of intersection with other roads, 239.

Charter to continue for thirty years, 240.

An act to incorporate the Greensboro' and Deep River Plank Road Company, 241.

Books to be opened, 241.

Capital one hundred thousand dollars, in shares of fifty dollars, 241.

Books may be kept open from time to time, 241.

Company incorporated—its name and style, 242.

One dollar to be paid on each subscription at the time of subscribing, 242.

Moneys to be paid over to the directors after the first election, 243.

Notice to be given when twenty-five thousand dollars have been subscribed, and a general meeting of the stockholders called, 243.

PLANK ROADS, (*Continued.*)

How such meeting shall be constituted, 243.

Nine directors to be elected at the general meeting, 243.

A president to be chosen by the directors from their body, 244.

Vacancies, how filled, 245.

Rights and powers of directors, 245.

President and directors may make contracts, 245.

May appoint officers and agents, 245.

If stock shall not be paid for, it may be sold, 245.

Capital may be increased to one hundred and fifty thousand dollars, 246.

Certificates of stock may be issued, 246.

How lands for the location of the road may be obtained, 246.

Duties of the freeholders in assessing damages, 247.

Freeholders to make report to court, 247.

Upon the reports being confirmed and the damages paid, the land shall be vested in the company, 247.

How lands for toll-houses may be obtained, 247.

Not more than two acres may be condemned, 247.

Toll to be so regulated that the profits shall not exceed twenty-five per cent. in any one year, 248.

Road may not be less than eight nor more than sixty feet wide, 248.

Penalty for refusing to pay toll, 248.

Penalty for injuring the road, 249.

Annual report to be made to the stockholders, 249.

A general meeting of the stockholders may be called by stockholders holding one-fourth of the capital stock, 249.

Proceedings in case of intersection with other roads, 249.

Connection with the road from the Gulf to Graham authorized, 250.

Commissioners may purchase land along the line of the road, 250.

PLANK ROADS, (*Continued.*)

The land may be resold and the proceeds considered as stock in the road and credited to the subscribers with whose subscription the purchase was made, according to the number of shares of each, 251.

Said purchase must be made with the unanimous consent and written authority of the subscribers whose interest is so invested, 251.

Not more than ten thousand acres may be owned by the company at any one time, 251.

Charter to continue thirty years, 251.

An act to incorporate the Gulf and Graham Plank Road Company, 252.

Corporate title, 252.

Capital sixty-five thousand dollars, in shares of fifty dollars each, 252.

General meeting may be called upon fifteen days' notice, 253.

How such meeting shall be constituted, 253.

Seven directors to be elected at the general meeting, 253.

A president to be chosen by the directors from their body, 253.

Vacancies, how filled, 254.

Rights and powers of directors, 254.

President and directors may make contracts, 254.

May appoint officers and agents, 254.

If stock shall not be paid for, it may be sold, 255.

How lands for the location of the road may be obtained, 255.

Duties of the freeholders in assessing damages, 256.

Freeholders to make report to court, 256.

Upon the reports being confirmed and the damages paid, the land shall be vested in the company, 256.

How lands for toll-houses may be obtained, 256.

Not more than two acres may be condemned, 256.

Toll to be so regulated that the profits shall not exceed twenty per cent. in any one year, 257.

PLANK ROADS, (*Continued.*)

Penalty for refusing to pay toll, 257.

Penalty for injuring the road, 258.

Annual report to be made to the stockholders, 258.

Proceedings in case of intersection with other roads, 258.

Charter to continue for thirty years, 258.

An act to amend an act passed at the session of 1850-51, entitled "An act to incorporate the Greenville and Raleigh Plank Road Company," 260.

Repeal of 10th section of act of 1850-51, 260.

Substitute for do., 260.

Repeal of 16th section of act of 1850-51, 261.

Substitute for do., 261.

The toll on any bridge not to exceed one dollar, 262.

An act to incorporate the Haywood and Chapel Hill plank road company, 263.

Books to be opened, 263.

Capital forty thousand dollars, in shares of fifty dollars, 263.

Books may be kept open from time to time, 264.

Company incorporated—its name and style, 264.

One dollar to be paid on each subscription at the time of subscribing, 264.

Moneys to be paid over to the directors after the first election, 265.

Notice to be given when ten thousand dollars have been subscribed, and a general meeting of the stockholders called, 265.

How such meeting shall be constituted, 265.

A president and five directors to be elected at the general meeting, 265.

Vacancies, how filled, 266.

Rights and powers of directors, 266.

President and directors may make contracts, 266.

May appoint officers and agents, 267.

If stock shall not be paid for, it may be sold, 267.

Capital may be increased to one hundred thousand dollars, 268.

PLANK ROADS, (*Continued.*)

How lands for the location of the road may be obtained, 268.

Duties of the freeholders in assessing damages, 269.

Freeholders to make report to court, 269.

Upon the reports being confirmed and the damages paid, the land shall be vested in the company, 269.

How lands for toll-houses may be obtained, 269.

Not more than two acres may be condemned, 270.

Toll to be so regulated that the profits shall not exceed twenty-five per cent. in any one year, 270.

Road may not be less than eight nor more than sixty feet wide, 270.

Penalty for refusing to pay toll, 270.

Penalty for injuring the road, 271.

Annual report to be made to the stockholders, 271.

A general meeting of the stockholders may be called by stockholders holding one-fourth of the capital stock, 271.

Proceedings in case of intersection with other roads, 272.

Charter to continue fifty years, 272.

An act to incorporate the Haywood and Pittsboro' Plank Road Company, 273.

Books to be opened, 273.

Capital twenty thousand dollars, in shares of fifty dollars, 209.

Books may be kept open from time to time, 273.

Company incorporated—its name and style, 274.

One dollar to be paid on each subscription at the time of subscribing, 274.

Moneys to be paid over to the directors after the first election, 274.

Notice to be given when ten thousand dollars have been subscribed and a general meeting of the stockholders called, 275.

How such meeting shall be constituted, 275.

Five directors to be elected at the general meeting, 275.

PLANK ROADS, (*Continued.*)

A president to be chosen by the directors from their body,
275.

Vacancies, how filled, 276.

Rights and powers of directors, 276.

President and directors may make contracts, 276.

May appoint officers and agents, 277.

If stock shall not be paid for, it may be sold, 277.

Capital may be increased to one hundred thousand dollars, 278.

How lands for the location of the road may be obtained,
278.

Duties of the freeholders in assessing damages, 279.

Freeholders to make report to court, 279.

Upon the report being confirmed and the damages paid,
the land shall be vested in the company, 279.

No dwelling-house, kitchen, garden or yard of any person shall be condemned, 279.

Either party may take an appeal from the decision of the freeholders, 279.

How lands for toll-houses may be obtained, 279.

Not more than five acres may be condemned, 279.

Toll to be so regulated that the profits shall not exceed twenty-five per cent. in any one year, 280.

Road may not be less than eight nor more than sixty feet wide, 280.

Penalty for refusing to pay toll, 280.

Penalty for injuring the road, 281.

Annual report to be made to the stockholders, 281.

A general meeting of the stockholders may be called by stockholders holding one-fourth of the capital stock,
281.

Proceedings in case of intersection with other roads, 281.

Charter to continue for fifty years, 282.

Company has not the power to prevent an intersection with their road by any plank road which any other company may construct from any point on Deep River, 282.

PLANK ROADS, (*Continued.*)

An act to incorporate the Haywood and Raleigh Plank Road Company, 283.

Books to be opened, 283.

Capital one hundred thousand dollars, in shares of fifty dollars, 283.

Books may be kept open from time to time, 283.

Company incorporated, its name and style, 284.

One dollar to be paid on each subscription at the time of subscribing, 284.

Moneys to be paid over to the directors after the first election, 285.

Notice to be given when twenty thousand dollars have been subscribed, and a general meeting of the stockholders called, 285.

How such meeting shall be constituted, 285.

Nine directors to be elected at the general meeting, 285.

A president to be chosen by the directors from their body, 285.

Vacancies, how filled, 286.

Rights and powers of directors, 286.

President and directors may make contracts, 286.

May appoint officers and agents, 287.

If stock shall not be paid for, it may be sold, 287.

How lands for the location of the road may be obtained, 288.

Duties of the freeholders in assessing damages, 288.

Freeholders to make report to court, 288.

Upon the report being confirmed and the damages paid, the land shall be vested in the company, 288.

No yard or grave-yard of any person shall be condemned, 288.

Either party may take an appeal from the decision of the freeholders, 289.

How lands for toll-houses may be obtained, 289.

Not more than two acres may be condemned, 289.

Toll to be so regulated that the profits shall not exceed twenty-five per cent. in any one year, 289.

PLANK ROADS, (*Continued.*)

Road may not be less than eight nor more than sixty feet wide, 289.

Penalty for refusing to pay toll, 290.

Penalty for injuring the road, 290.

Annual report to be made to the stockholders, 291.

A general meeting of the stockholders may be called by stockholders holding one-fourth of the capital stock, 291.

Proceedings in case of intersection with other roads, 291.

Charter to continue for fifty years, 292.

An act to incorporate the Jacksonville and Trent River Plank Road Company in the counties of Onslow and Jones, 293.

Books to be opened, 293.

Capital fifty thousand dollars, in shares of fifty dollars, 293.

Books may be kept open from time to time, 293.

Company incorporated, its name and style, 293.

One dollar to be paid on each subscription at the time of subscribing, 294.

Moneys to be paid over to the directors after the first election, 294.

Notice to be given when ten thousand dollars have been subscribed, and a general meeting of the stockholders called, 295.

How such meeting shall be constituted, 295.

A president and eight directors to be elected at the general meeting, 295.

Vacancies, how filled, 296.

Rights and powers of directors, 296.

President and directors may make contracts, 296.

May appoint officers and agents, 296.

If stock shall not be paid for, it may be sold, 297.

How lands for the location of the road may be obtained, 297.

Duties of the freeholders in assessing damages, 298.

PLANK ROADS, (*Continued.*)

Freeholders to make report to court, 298.

Upon the reports being confirmed and the damages paid, the land shall be vested in the company, 298.

Either party may take an appeal from the decision of the freeholders, 298.

A reasonable toll may be received, 299.

Road may not be less than eight nor more than thirty feet wide, 299.

Penalty for refusing to pay toll, 299.

Penalty for injuring the road, 300.

Annual report to be made to the stockholders, 300.

A general meeting of the stockholders may be called by stockholders holding one-fourth of the capital stock, 300.

Proceedings in case of intersection with other roads, 300.

Charter to continue for fifty years, 300.

An act to incorporate the Kingsbury and Locksville plank road company. 302.

Corporate title, 302.

Rights and privileges of the company, 302.

Capital one hundred thousand dollars, 303.

A general meeting may be called on ten day's notice. 303.

How such meeting shall be constituted, 303.

Seven directors to be elected at the general meeting, 303.

A president to be chosen by the directors from their body, 303.

Vacancies, how filled, 304.

Rights and powers of directors, 304.

President and directors may make contracts, 304.

May appoint officers and agents, 305.

If stock shall not be paid for, it may be sold, 305.

How lands for the location of the road may be obtained, 306.

Duties of the freeholders in assessing damages, 306.

Freeholders to make report to court, 306.

PLANK ROADS, (*Continued.*)

Upon the report being confirmed and the damages paid, the land shall be vested in the company, 306.

No dwelling-house, kitchen, garden or yard of any person shall be condemned, 306.

Either party may take an appeal from the decision of the freeholders, 306.

How lands for toll-houses may be obtained, 307.

Not more than two acres may be condemned, 307.

A reasonable toll may be received, 307.

Road may not be less than eight nor more than sixty feet wide, 307.

Penalty for refusing to pay toll, 307.

Penalty for injuring the road, 308.

Annual report to be made to the stockholders, 308.

Proceedings in case of intersection with other roads, 308.

When ten thousand dollars have been subscribed, a general meeting may be called and the company organized, 309.

Charter to continue for thirty years, 309.

An act to incorporate the Kinston and Snow Hill Plank Road Company, 310.

Books to be opened, 310.

Capital forty thousand dollars, in shares of fifty dollars, 310.

Books may be kept open from time to time, 310.

Company incorporated—its name and style, 311.

One dollar to be paid on each subscription at the time of subscribing, 311.

Moneys to be paid over to the directors after the first election, 311.

Notice to be given when five thousand dollars have been subscribed, and a general meeting of the stockholders called, 312.

How such meeting shall be constituted, 312.

A president and five directors to be elected at the general meeting, 312.

PLANK ROADS, (*Continued.*)

- Vacancies, how filled, 313.
- Rights and powers of directors, 313.
- President and directors may make contracts, 313.
- May appoint officers and agents, 314.
- If stock shall not be paid for, it may be sold, 314.
- Capital may be increased to sixty thousand dollars. 315.
- How lands for the location of the road may be obtained 315.
- Duties of the freeholders in assessing damages, 316.
- Freeholders to make report to court, 316.
- Upon the report being confirmed and the damages paid the land shall be vested in the company, 316.
- How lands for toll-houses may be obtained, 316.
- Not more than two acres may be condemned, 316.
- Toll to be so regulated that the profits shall not exceed twenty-five per cent. in any one year, 317.
- Road may not be less than eight nor more than forty feet wide, 317.
- Penalty for refusing to pay toll, 317.
- Penalty for injuring the road, 317.
- Annual report to be made to the stockholders, 318.
- Proceedings in case of intersection with other roads, 318.
- Charter to continue for thirty years, 319.
- An act to incorporate the Locksville and Hillsboro' Plank Road Company, 320.*
- Books to be opened, 320.
- Capital one hundred thousand dollars, in shares of fifty dollars, 320.
- Books may be kept open from time to time, 320.
- Company incorporated—its name and style, 320.
- One dollar to be paid on each subscription at the time of subscribing, 320.
- Moneys to be paid over to the directors after the first election, 321.
- Notice to be given when ten thousand dollars have been subscribed, and a general meeting of the stockholders called, 321.

PLANK ROADS, (*Continued.*)

- How such meeting shall be constituted, 321.
- A president and seven directors to be elected at the general meeting, 321.
- Vacancies, how filled, 322.
- Rights and powers of directors, 322.
- President and directors may make contracts, 322.
- May appoint officers and agents, 322.
- If stock shall not be paid for, it may be sold, 322.
- How lands for the location of the road may be obtained, 322.
- Duties of the freeholders in assessing damages, 323.
- Freeholders to make report to court, 323.
- Upon the report being confirmed and the damages paid the land shall be vested in the company, 323.
- No dwelling-house, kitchen, garden or yard of any person shall be condemned, 323.
- Either party may take an appeal from the decision of the freeholders, 323.
- How lands for toll-houses may be obtained, 324.
- Not more than two acres may be condemned, 324.
- Toll to be so regulated that the profits shall not exceed twenty per cent. in any one year, 324.
- Road may not be less than eight nor more than sixty feet wide, 324.
- Penalty for refusing to pay toll, 324.
- Penalty for injuring the road, 324.
- Annual report to be made to the stockholders, 325.
- Proceedings in case of intersection with other roads, 325.
- A general meeting of the stockholders may be called by stockholders holding one-fourth of the capital stock, 325.
- Branches may be constructed, 326.
- An act to incorporate the Lumberton and Cape Fear Plank Road Company*, 327.
- Corporate title, 327.
- Capital fifty thousand dollars, in shares of fifty dollars, 328.

PLANK ROADS, (*Continued.*)

A general meeting may be called on ten days' notice, 328.

How such meeting shall be constituted, 328.

Nine directors and a president, with all other officers necessary for the transaction of business, to be elected at each annual meeting, 328.

Vacancies, how filled, 329.

Rights and powers of directors, 329.

President and directors may make contracts, 329.

May appoint officers and agents, 330.

If stock shall not be paid for, it may be sold, 330.

How lands for the location of the road may be obtained, 330.

Duties of the freeholders in assessing damages, 330.

Freeholders to make report to court, 330.

Upon the report being confirmed and the damages paid, the land shall be vested in the company, 330.

No dwelling-house, kitchen, burial place, garden or yard of any person shall be condemned, 331.

How lands for toll-houses may be obtained, 332.

Not more than two acres may be condemned, 332.

A reasonable toll may be demanded as soon as five miles are completed, 332.

Road may not be less than eight nor more than sixty feet wide, 332.

Penalty for refusing to pay toll, 332.

Penalty for injuring the road, 332.

Annual report to be made to the stockholders, 333.

Proceedings in case of intersection with other roads, 333.

Charter to continue for fifty years, 334.

An act to incorporate the Lumberton and Columbus Plank Road Company," 335.

Corporate title, 335.

Capital sixty thousand dollars, in shares of fifty dollars, 336.

A general meeting of the stockholders may be called on ten days' notice, 336.

PLANK ROADS, (*Continued.*)

- Nine directors and a president, with all other officers necessary for the transaction of business, 337.
- Vacancies, how filled, 337.
- Rights and powers of directors, 337.
- President and directors may make contracts, 337.
- May appoint officers and agents, 338.
- If stock shall not be paid for, it may be sold, 338.
- How lands for the location of the road may be obtained, 339.
- Duties of the freeholders in assessing damages, 339.
- Freeholders to make report to court, 339.
- Upon the report being confirmed and the damages paid, the land shall be vested in the company, 339.
- How lands for toll-houses may be obtained, 339.
- Not more than five acres may be condemned, 340.
- Toll to be so regulated that the profits shall not exceed twenty-five per cent. in any one year, 340.
- Road may not be less than eight nor more than sixty feet wide, 340.
- Penalty for refusing to pay toll, 340.
- Penalty for injuring the road, 341.
- Annual report to be made to the stockholders, 341.
- Proceedings in case of intersection with other roads, 341.
- Charter to continue for fifty years, 342.
- An act to incorporate the Neuse River and Snow Hill Plank Road Company*, 343.
- Books to be opened, 343.
- Capital twenty thousand dollars, in shares of fifty dollars, 343.
- Books may be kept open from time to time, 343.
- Company incorporated—its name and style, 344.
- One dollar to be paid on each subscription at the time of subscribing, 344.
- Moneys to be paid over to the directors after the first election, 344.

PLANK ROADS, (*Continued.*)

Notice to be given when five thousand dollars have been subscribed, a general meeting of the stockholders called, 345.

How such meeting shall be constituted, 345.

Five directors to be elected at the general meeting, 345.

A president to be chosen by the directors from their body, 345.

Vacancies, how filled, 345.

Rights and powers of directors, 346.

President and directors may make contracts, 346.

May appoint officers and agents, 346.

If stock shall not be paid for, it may be sold, 346.

How lands for the location of the road may be obtained, 347.

Duties of the freeholders in assessing damages, 348.

Freeholders to make report to court, 348.

Upon report being confirmed and the damages paid, the land shall be vested in the company, 348.

No dwelling house, kitchen, garden, burial ground or yard of any person shall be condemned, 348.

Either party may take an appeal from the decision of the freeholders, 348.

A reasonable toll may be demanded, 348.

Road may not be less than eight nor more than thirty feet wide, 349.

Penalty for refusing to pay toll, 349.

Penalty for injuring the road, 350.

Annual report to be made to the stockholders, 350.

A general meeting of the stockholders may be called by stockholders holding one-fourth of the capital stock, 350.

Proceedings in case of intersection with other roads, 350.

Charter to continue for thirty years, 351.

An act to incorporate the North Carolina Steam Carriage and Plank Road Company, 352.

Preamble, 352.

Name and style of the company, 352.

PLANK ROADS, (*Continued.*)

Capital stock two thousand five hundred dollars, in shares of fifty dollars each, 352.

Capital may be increased to two hundred thousand dollars, 352.

Original subscribers to have prior rights in subscribing the amount of the increase, 352.

Company may construct and run steam carriages, 353.

May run steam carriages on plank roads, turnpike roads, and the common roads, 353.

Exclusive right of running their carriages in this State for twenty years granted, 353.

Provided the company shall have one carriage in successful operation within one year, 353.

The company may build a plank road from Greenville to the coal mines on Deep River, 353.

An act to incorporate the Pedee Plank Road Company, 354.

Books to be opened, 354.

Capital fifty thousand dollars, in shares of twenty-five dollars, 354.

Books may be kept open from time to time, 354.

Company incorporated, its name and style, 355.

One dollar to be paid on each subscription at the time of subscribing,

Moneys to be paid over to the directors after the first election, 355.

Notice to be given when ten thousand dollars have been subscribed, and a general meeting of the stockholders called, 356.

How such meeting shall be constituted, 356.

Seven directors to be elected at the general meeting, 356.

A president to be chosen by the directors from their body, 356.

Vacancies, how filled, 357.

Rights and powers of directors, 357.

President and directors may make contracts, 357.

PLANK ROADS, (*Continued.*)

May appoint officers and agents, 357.

If stock shall not be paid for, it may be sold, 358.

How lands for the location of the road may be obtained, 358.

Duties of the freeholders in assessing damages, 359.

Freeholders to make report to court, 359.

Upon the reports being confirmed and the damages paid, the land shall be vested in the company, 359.

No dwelling-house, kitchen, garden, or yard of any person shall be condemned, 359.

Either party may take an appeal from the decision of the freeholders, 359.

Five days' notice to be given in case of assessment of damages, 359.

Sheriff to be allowed seventy-five cents for such notice, 360.

Costs incident to the condemnation of land to be paid by the company, 360.

How lands for toll-houses may be obtained, 360.

Not more than two acres may be condemned, 360.

Toll to be so regulated that the profits shall not exceed twenty-five per cent. in any one year, 360.

Road may not be less than eight nor more than sixty feet wide, 361.

Penalty for refusing to pay toll, 361.

Penalty for injuring the road, 361.

Annual report to be made to the stockholders, 362.

A general meeting of the stockholders may be called by stockholders holding one-fourth of the capital stock, 362.

Proceedings in case of intersection with other roads, 362.

Charter to continue for thirty years, 363.

An act to incorporate the Robeson and Richmond Plank Road Company, 364.

Corporate title, 364.

Capital forty thousand dollars, in shares of fifty dollars, 365.

PLANK ROADS, (*Continued.*)

General meeting of the stockholders may be held on ten days' notice, 365.

How such meeting shall be constituted, 365.

Seven directors to be elected at the general meeting, 365.

A president to be chosen by the directors from their body, 365.

Vacancies, how filled, 366.

Rights and powers of directors, 366.

May appoint officers and agents, 366.

If stock shall not be paid for, it may be sold, 367.

How lands for the location of the road may be obtained 367.

Duties of the freeholders in assessing damages, 368.

Freeholders to make report to court, 368.

Upon the report being confirmed and the damages paid, the land shall be vested in the company, 368.

How lands for toll-houses may be obtained, 368.

Not more than two acres may be condemned, 369.

Toll to be so regulated that the profits shall not exceed twenty-five per cent. in any one year, 369.

Penalty for refusing to pay toll, 369.

Penalty for injuring the road, 369.

Annual report to be made to the stockholders, 370.

Proceedings in case of intersection with other roads, 370.

Charter to continue for forty years, 371.

— *An act to incorporate the Rutherford and Cleaveland plank road company*, 372. — +

Books to be opened, 372.

Capital two hundred thousand dollars, in shares of fifty dollars, 372.

Books may be kept open from time to time, 373.

Company incorporated—its name and style, 373.

One dollar to be paid on each subscription at the time of subscribing, 374.

Moneys to be paid over to the directors after the first election, 374.

PLANK ROADS, (*Continued.*)

Notice to be given when _____ dollars have been subscribed, and a general meeting of the stockholders called, 374.

How such meeting shall be constituted, 374.

A president and nine directors to be elected at the general meeting, 375.

Vacancies, how filled, 375.

Rights and powers of directors, 375.

President and directors may make contracts, 375.

May appoint officers and agents, 376.

If stock shall not be paid for, it may be sold, 376.

Capital stock may be increased to three hundred thousand dollars, 377.

How lands for the location of the road may be obtained, 378.

Duties of the freeholders in assessing damages, 378.

Freeholders to make report to court, 378.

Upon the report being confirmed and the damages paid, the land shall be vested in the company, 378.

How lands for toll-houses may be obtained, 378.

Not more than five acres may be condemned, 378.

Toll to be so regulated that the profits shall not exceed twenty per cent. in any one year, 379.

Road may not be less than ten nor more than thirty feet wide, 379.

Penalty for refusing to pay toll, 379.

Penalty for injuring the road, 380.

Annual report to be made to the stockholders, 380.

Proceedings in case of intersection with other roads, 380.

An act to incorporate the Salisbury Mocksville, and Wilkesboro' Plank Road Company. 382.

Books to be opened, 382.

Capital one hundred thousand dollars, in shares of one hundred dollars, 382.

Books may be kept open from time to time, 382.

Company incorporated—its name and style, 382.

PLANK ROADS, (*Continued.*)

One dollar to be paid on each subscription at the time of subscribing, 383.

Moneys to be paid over to the directors after the first election, 383.

Notice to be given when ten thousand dollars have been subscribed, and a general meeting of the stockholders called, 383.

How such meeting shall be constituted, 383.

A president and seven directors to be elected at the general meeting, 383.

Vacancies, how filled, 383.

Rights and powers of directors, 384.

President and directors may make contracts. 384.

May appoint officers and agents, 384.

If stock shall not be paid for, it may be sold, 384.

How lands for the location of the road may be obtained, 385.

Duties of the freeholders in assessing damages, 385.

Freeholders to make report to court, 385.

Upon the report being confirmed and the damages paid, the land shall be vested in the company, 385.

No dwelling-house, kitchen, garden or yard of any person shall be condemned, 385.

Either party may take an appeal from the decision of the freeholders, 386.

How lands for toll-houses may be obtained, 386.

Not more than two acres may be condemned, 386.

Toll to be so regulated that the profits shall not exceed twenty per cent. in any one year, 386.

Road may not be less than eight nor more than sixty feet wide, 386.

Penalty for refusing to pay toll, 386.

Penalty for injuring the road, 387.

Annual report to be made to the stockholders, 387.

A general meeting of the stockholders may be called by stockholders holding one-fourth of the capital stock, 387.

PLANK ROADS, (*Continued.*)

Proceedings in case of intersection with other roads, 387.

An act to alter and amend an act passed by the General Assembly at the session of 1850-'51, entitled "An act to incorporate the Salisbury and Taylorsville Plank Road Company, 389.

Capital stock of the company may be increased one hundred thousand dollars, by subscription, 389.

Company may extend their road in any direction from Salisbury, 389.

May condemn lands on the road which is extended from Salisbury, 389.

An act to incorporate the Spartansburg and Rutherfordton Plank Road Company, 390.

Books to be opened, 390.

Capital one hundred thousand dollars, in shares of fifty dollars, 391.

Books may be kept open from time to time, 391.

Company incorporated—its name and style, 391.

One dollar to be paid on each subscription at the time of subscribing, 392.

Moneys to be paid over to the directors after the first election, 392.

Notice to be given when fifteen thousand dollars have been subscribed, and a general meeting of the stockholders called, 392.

How such meeting shall be constituted, 392.

A president and nine directors to be elected at the general meeting, 393.

Vacancies, how filled, 393.

Rights and powers of directors, 393.

President and directors may make contracts, 393.

May appoint officers and agents, 394.

If stock shall not be paid for, it may be sold, 394.

Capital stock may be increased to two hundred and fifty thousand dollars, 395.

PLANK ROADS, (*Continued.*)

Company may within three years determine whether they will extend their road to Asheville or Marion or Morganton, &c., 396.

Provision for connection with a South Carolina Plank Road, 396.

How lands for the location of the road may be obtained, 397.

Duties of the freeholders in assessing damages, 397.

Freeholders to make report to court, 297.

Upon the reports being confirmed and the damages paid, the land shall be vested in the company, 397.

How lands for toll-houses may be obtained, 398.

Not more than one acre may be condemned, 398.

Meetings of stockholders, how regulated, 398.

No stockholder may give more than fifty votes, 398.

The scale of voting may be changed, 398.

Road may not be less than eight feet in width, or at least eight feet of earth road adjoining, to be used as a part thereof, 399.

The width of the whole road may not be more than thirty feet, 399.

Toll to be so regulated that the profits shall not exceed twenty-five per cent. in any one year, 399.

Penalty for refusing to pay toll, 399.

Penalty for injuring the road, 400.

Annual report to be made to the stockholders, 400.

Proceedings in case of intersection with other roads, 400.

Road, when built, to be a public highway, 401.

An act to incorporate the Swift Creek Plank Road Company. 402.

Corporate title, 402.

Capital stock fifty thousand dollars in shares of fifty dollars, 402.

Road may not be less than eight nor more than sixty feet wide, 402.

PLANK ROADS, (*Continued.*)

Notice to be given when ten thousand dollars have been subscribed, and a general meeting of the stockholders called, 403.

How such meeting shall be constituted, 403.

Five directors to be elected at the general meeting, 403.

A president to be chosen by the directors from their body, 403.

Vacancies, how filled, 403.

President and directors may make contracts, 403.

May appoint officers and agents, 404.

If stock shall not be paid for, it may be sold, 404.

How lands for the location of the road may be obtained, 404.

Duties of the freeholders in assessing damages, 405.

Freeholders to make report to court, 405.

Upon the report being confirmed and the damages paid, the land shall be vested in the company, 405.

No dwelling-house, kitchen, garden or yard of any person shall be condemned, 405.

When 5 miles have been completed, toll may be demanded, 405.

Penalty for refusing to pay toll, 405.

Penalty for injuring the road, 406.

Proceedings in case of intersection with other roads, 406.

An act to incorporate the Tarboro' and Endfield Plank Road Company, 408.

Books to be opened, 408.

Capital forty thousand dollars, in shares of twenty-five dollars, 408.

Books may be kept open from time to time, 408.

Company incorporated—its name and style, 408.

One dollar to be paid on each subscription at the time of subscribing, 409.

Moneys to be paid over to the directors after the first election, 409.

PLANK ROADS, (*Continued.*)

Notice to be given when fifteen thousand dollars have been subscribed, and a general meeting of the stockholders called, 410.

How such meeting shall be constituted, 410.

A president and five directors to be elected at the general meeting, 410.

Vacancies, how filled, 410.

Rights and powers of directors, 411.

President and directors may make contracts, 411.

May appoint officers and agents, 411.

If stock shall not be paid for, it may be sold, 412.

Capital stock may be increased to sixty thousand dollars, 412.

How lands for the location of the road may be obtained, 413.

Duties of the freeholders in assessing damages, 413.

Freeholders to make report to court, 413.

Upon the report being confirmed and the damages paid, the land shall be vested in the company, 414.

No dwelling-house, kitchen, garden or yard of any person shall be condemned, 414.

How lands for toll-houses may be obtained, 414.

Not more than two acres may be condemned, 414.

Toll to be so regulated that the profits shall not exceed twenty-five per cent. in any one year, 414.

Road may not be less than eight nor more than sixty feet wide, 415.

Penalty for refusing to pay toll, 415.

Penalty for injuring the road, 415.

Annual report to be made to the stockholders, 416.

Proceedings in case of intersection with other roads, 416.

Election of president and directors to be by ballot, 416.

Each stockholder to have as many votes as he has shares in the stock of the company, 417.

Charter to continue for fifty years, 417.

PLANK ROADS, (*Continued.*)

An act to incorporate the Tarboro' and Rocky Mount Plank Road Company, 418.

Books to be opened, 418.

Capital twenty thousand dollars, in shares of twenty-five dollars, 418.

Books may be kept open from time to time, 418.

Company incorporated—its name and style, 419.

One dollar to be paid on each subscription at the time of subscribing, 419.

Moneys to be paid over to the directors after the first election, 419.

Notice to be given when twelve thousand five hundred dollars have been subscribed, and a general meeting of the stockholders called, 420.

How such meeting shall be constituted, 420.

A president and five directors to be elected at the general meeting, 420.

Vacancies how filled, 420.

Rights and powers of directors, 421.

President and directors may make contracts, 421.

May appoint officers and agents, 421.

If stock shall not be paid for, it may be sold, 422.

Capital stock may be increased to thirty-five thousand dollars, 422.

How lands for the location of the road may be obtained, 423.

Duties of the freeholders in assessing damages, 423.

Freeholders to make report to court, 423.

• Upon the report being confirmed and the damages paid, the land shall be vested in the company, 424.

How lands for toll-houses may be obtained, 424.

Not more than five acres may be condemned, 424.

Toll to be so regulated that the profits shall not exceed twenty-five per cent. in any one year, 425.

Road may not be less than eight nor more than thirty feet wide, 425.

Penalty for refusing to pay toll, 425.

PLANK ROADS, (*Continued.*)

- Penalty for injuring the road, 425.
- Annual report to be made to the stockholders, 426.
- Proceedings in case of intersection with other roads, 426.
- Election of President and directors to be by ballot, 426.
- Each stockholder to have as many votes as he has shares,
426.
- Charter to continue for thirty years, 427.
- An act to incorporate the Uharie and Yadkin plank road
Company*, 428.
- Books to be opened, 428.
- Capital eighty thousand dollars in shares of fifty dollars,
428.
- Books may be kept open from time to time, 429.
- Company incorporated—its name and style, 429.
- One dollar to be paid on each subscription at the time of
subscribing, 430.
- Moneys to be paid over to the directors after the first
election, 430.
- Notice to be given when ten thousand dollars have been
subscribed, and a general meeting of the stockholders
called, 430.
- How such meeting shall be constituted, 430.
- Nine directors to be elected at the general meeting, 431.
- A president to be chosen by the directors from their
body, 431.
- Vacancies, how filled, 431.
- Rights and powers of directors, 431.
- President and directors may make contracts, 431.
- May appoint officers and agents, 432.
- If stock shall not be paid for, it may be sold, 432.
- How lands for the location of the road may be obtained,
433.
- Duties of the freeholders in assessing damages, 433.
- Freeholders to make report to court, 433.
- Upon the report being confirmed and the damages paid,
the land shall be vested in the company, 434.

PLANK ROADS, (*Continued.*)

No dwelling-house, kitchen, garden, yard, barn-yard or lot of any person shall be condemned, 434.

Five days' notice to be given in case of assessment of damages, 434.

Sheriff to be allowed seventy-five cents for such notice, 434.

Costs incident to the condemnation of land to be paid by the company, 434.

How lands for toll-houses may be obtained, 434.

Not more than two acres may be condemned, 435.

Toll to be so regulated that the profits shall not exceed twenty-five per cent. in any one year, 435.

Road may not be less than eight nor more than sixty feet wide, 435.

Penalty for refusing to pay toll, 435.

Penalty for injuring the road, 436.

Annual report to be made to the stockholders, 437.

Proceedings in case of intersection with other roads, 437.

Charter to continue for thirty years, 437.

An act to incorporate the Washington and Tarboro' Plank Road Company, 438.

Books to be opened, 438.

Capital two hundred thousand dollars, in shares of twenty-five dollars, 438.

Books may be kept open from time to time, 438.

Company incorporated, its name and style, 439.

One dollar to be paid on each subscription at the time of subscribing, 439.

Moneys to be paid over to the directors after the first election, 440.

Notice to be given when twenty thousand dollars have been subscribed, and a general meeting of the stockholders called, 440.

How such meeting shall be constituted, 440.

A president and nine directors to be elected at the general meeting, 440.

Vacancies, how filled, 441.

PLANK ROADS, (*Continued.*)

Rights and powers of directors, 441.

President and directors may make contracts, 441.

May appoint officers and agents, 442.

If stock shall not be paid for, it may be sold, 442.

Capital stock may be increased to three hundred thousand dollars, 443.

How lands for the location of the road may be obtained, 443.

Duties of the freeholders in assessing damages, 444.

Freeholders to make report to court, 444.

Upon the reports being confirmed and the damages paid, the land shall be vested in the company, 444.

How lands for toll-houses may be obtained, 444.

Toll to be so regulated that the profits shall not exceed twenty per cent. in any one year, 445.

Road may not be less than eight nor more than forty feet wide, 445.

Penalty for refusing to pay toll, 445.

Penalty for injuring the road, 446.

Annual report to be made to the stockholders, 446.

Proceedings in case of intersection with other roads, 446.

Mode of voting, 447.

Charter to continue for fifty years, 447.

An act to amend an act passed in 1850-51, chapter 133, entitled "An act to incorporate the Western Plank Road Company," 448.

When ten miles have been completed, a toll-gate may be erected, 448.

Rates of toll to be regulated according to the 17th section of the above act, 448.

Penalty for refusing to pay toll, 448.

An act to incorporate the Winston and Wilkesboro' Plank Road Company, 449.

Books to be opened, 449.

Capital seventy-five thousand dollars, in shares of fifty dollars, 449.

PLANK ROADS, (*Continued.*)

- Books may be kept open from time to time, 450.
- Company incorporated—its name and style, 450.
- One dollar to be paid on each subscription at the time of subscribing, 450.
- Moneys to be paid over to the directors after the first election, 451.
- Notice to be given when ten thousand dollars have been subscribed, and a general meeting of the stockholders called, 451.
- How such meeting shall be constituted, 451.
- A president and nine directors to be elected at the general meeting, 452.
- Vacancies, how filled, 452.
- Rights and powers of directors, 452.
- President and directors may make contracts, 452.
- May appoint officers and agents, 453.
- If stock shall not be paid for, it may be sold, 453.
- Capital stock may be increased to one hundred and fifty thousand dollars, 454.
- How lands for the location of the road may be obtained, 454.
- Duties of the freeholders in assessing damages, 455.
- Freeholders to make report to court, 455.
- Upon the report being confirmed and the damages paid, the land shall be vested in the company, 455.
- How lands for toll-houses may be obtained, 455.
- Not more than five acres may be condemned, 455.
- Toll to be so regulated that the profits shall not exceed twenty per cent. in any one year, 455.
- Road may not be less than eight nor more than twenty-five feet wide, 456.
- Penalty for refusing to pay toll, 456.
- Penalty for injuring the road, 456.
- Annual report to be made to the stockholders, 457.
- Proceedings in case of intersection with other roads, 457.
- Charter to continue for thirty years, 457.

PLANK ROADS, (*Continued.*)

An act to incorporate the Colly Navigation Company, 458.

Preamble, 458.

Books to be opened, 458.

Capital stock twenty thousand dollars, in shares of fifty dollars, 459.

Books may be kept open, 459.

Company incorporated—its name and style, 459.

One dollar to be paid on each subscription at the time of subscribing, 460.

Moneys to be paid over to the directors after the first election, 460.

When four hundred shares of the stock shall have been subscribed, a general meeting to be called, 460.

Meeting, how constituted, 460.

A president and five directors to be elected at every annual meeting, 461.

Vacancies, how filled, 461.

Rights and powers of directors, 461.

President and directors may make contracts, 462.

May appoint officers and agents, 462.

If stock shall not be paid for, it may be sold, 462.

Land may be condemned for the use of the company, 463.

The mill-house, yard or other building of no person may be condemned, 463.

Duties of the freeholders in assessing damages, 463.

Freeholders to make report to court, 464.

Upon the report being confirmed and the damages paid, the land shall be vested in the company, 464.

Lands may be entered upon before condemnation, 465.

Injunction prohibited, 465.

Adjacent lands may be entered upon under the same rules as provided for in the condemnation of lands, 465.

Rights of property vested in stockholders, 466.

Toll authorized, 466.

Annual or semi-annual dividends to be made, 466.

PLANK ROADS, (*Continued.*)

Annual meeting, 467.

How such meeting shall be constituted. 467.

Scale of voting, 467.

No stockholder entitled to more than fifty votes, 467.

Directors to make report to the annual meetings, 467.

Charter forfeited if the work is not commenced within three years after the passage of the act, &c., 468.

Certificates of stock to be issued, 468.

Certificates transferable, 468.

Damage to work punishable, 468.

President must be a resident of Bladen county, 469.

Lands adjacent to Colly Creek not to be taxed according to the increased value of such lands caused by the improvement of said creek, 469.

Charter to continue in force for one hundred years, 469.

Engineer, &c., may be employed, 469.

Repeal of conflicting laws, 469.

Provision for improving Nat Moore and White Oak Creeks, 470.

Subscriptions for ten thousand dollars may be received for this purpose, 470.

Books may be opened, 470.

Corporate title, 471.

Right and powers, 471.

An act to incorporate the Upper Little River Navigation Company in the county of Cumberland, 472.

Corporate title, 472.

Capital seventy-five thousand dollars, in shares of fifty dollars, 472.

Books to be opened, 472.

Books may be kept open from time to time. 473.

Two dollars to be paid on every share at the time of subscribing, 474.

Notice to be given when one hundred shares have been subscribed, and a general meeting of the stockholders called, 474.

How such meeting shall be constituted, 474.

PLANK ROADS, (*Continued.*)

- A president and five directors to be elected at the general meeting, 475.
- Vacancies, how filled, 475.
- Rights and powers of directors, 475.
- President and directors may make contracts, 475.
- May appoint officers and agents, 476.
- If stock shall not be paid for, it may be sold, 476.
- Land may be condemned for the use of the company, 476.
- The mill, house, yard and other buildings of any person not to be invaded, 477.
- Not more than two acres to be condemned, 477.
- Duties of the freeholders in assessing damages, 477.
- Freeholders to make report to court, 478.
- Upon the report being confirmed and the damages paid, the land shall be vested in the company, 478.
- Adjacent lands may be entered upon before they are condemned, 478.
- Toll to be so regulated that the profits shall not exceed twenty per cent. in any one year, 479.
- Directors to make an annual report, 480.
- Votes, how given, 480.

PROBATE OF DEEDS, &c.

- An act authorizing the probate of all deeds and bills of sale requiring registration, before the clerks of the courts of pleas and quarter sessions at any time, 481.*
- Clerks of the several courts of pleas and quarter sessions, or their deputies, may take the probate of deeds, &c., 481.
- Probate of deeds executed by *femes covert* excepted, 481.

PUBLIC LANDINGS.

- An act to amend an act of the Revised Statutes, chapter 59th, entitled "An act for establishing public landings and places of inspection, and for the appointment of inspectors and regulation of inspections, 482.*
- Sixth section of above act repealed so far as it extends to Wilmington, 482.

PUBLIC LANDINGS, (*Continued.*)

New Hanover county may appoint eight or more inspectors of naval stores for the town of Wilmington, 482.

Conflicting acts repealed, 482.

An act to amend an act entitled "An act for establishing public landings and places of inspection, and for the appointment of inspectors and regulation of inspections," 483.

Twenty-eighth section of above act amended, 483.

Flour to be distinguished as *family, superfine, fine* and *cross-middling*, 483.

The above brands to be put upon flour, 483.

RAILROADS.

An act to incorporate "The Atlantic and North Carolina Railroad Company," and "The North Carolina and Western Railroad Company," 484.

Corporate title, 484.

Capital, nine hundred thousand dollars, 484.

To run from Beaufort to Goldsboro', 484.

North Carolina and Western Railroad company incorporated, 484.

Capital three millions of dollars, 484.

To run from Salisbury to the Tennessee line, 484.

Charters to continue for ninety-nine years, 484.

Books to be opened, 485.

Public notice, 486.

Regulations in regard to subscriptions for stock, 486.

Books to be kept open from time to time, 487.

When three hundred thousand dollars shall be subscribed the company to be incorporated, 488.

Notice of process, 488.

General meeting to be called when three hundred thousand dollars shall have been subscribed, 488.

Notice of meeting to be published for thirty days, 489.

Eight directors to be elected, 489.

All directors must be stockholders, 489.

Mode of voting, 489.

RAILROADS, (*Continued.*)

- The president to be elected by the directors from their own body, 490.
- First general meeting, how constituted, 490.
- Regulation of votes, 490.
- Moneys to be paid over to the first board of directors, 490.
- Vacancies, how filled, 491.
- Directors may make contracts, 491.
- Rights and powers of the company, 491.
- Right of transportation &c. vested exclusively in the company, 492.
- Company may farm out the right of transportation, 492.
- May make requisitions for the payment of stock subscribed, 492.
- If stock shall not be paid for, it may be sold, 493.
- Certificates of stock may be issued, 493.
- Stock may be transferred, 493.
- Annual report to be made, 493.
- Company may hold lands, &c., 494.
- May construct the road along or across any public road, 494.
- Condemnation of lands, 494.
- Commissioners to be appointed, 494.
- An appeal may be taken by either party from the decision of the commissioners to the superior court, 495.
- Commissioners to make return of their proceedings to court, 495.
- No dwelling-house, yard, or burial ground may be invaded, 496.
- One hundred feet on each side of the road to be condemned, 496.
- Not exceeding two acres may be condemned for depot, &c., 496.
- In the absence of any contract in relation to lands through which the road may pass, it shall be presumed that the land has been granted to said company, &c., 497.

RAILROADS, (*Continued.*)

- All lands not heretofore granted to any person, &c., within one hundred feet of the centre of the road, to vest in the company, 497.
- Intrusion upon road punishable, 498.
- Obstruction of passage punishable, 498.
- Rules of transportation, 498.
- Semi-annual dividends may be declared, 498.
- Subscriptions may be made by incorporated towns or counties, 499.
- Polls may be opened to take the sense of the people in regard to subscribing, 499.
- If a majority are in favor of subscribing, an agent to be appointed to make the subscription on behalf of the town, 500.
- Loans may be negotiated by towns and counties to pay instalments, &c., 500.
- The corporate authorities of towns and the justices of counties that have subscribed may appoint a proxy to represent the stock, 501.
- The governor to make the necessary arrangements with the president and directors of the North Carolina Railroad for a survey of a route for a railroad from Beaufort to Goldsboro', 501.
- Four thousand dollars appropriated to cover the State's portion of the expenses of survey, 501.
- Estimate of the cost to be made by the engineer, 501.
- The directors of the several banks of the State may subscribe for stock on behalf of the corporations, 502.
- The consent of a majority of the stockholders must be previously obtained, 502.
- In case of domestic invasion or insurrection the company to transport troops, &c., free of charge, 502.
- What officers and servants of the company are exempted from serving on juries and performing military duty, 502.
- Commissioners for the North Carolina and Western Railroad Company, 502.

RAILROADS, (*Continued.*)

The sections of this act from the third to the forty-first, inclusive, to apply also to the North Carolina and Western Railroad Company, 505.

The board of internal improvements to make arrangements with the president and directors of the North Carolina Railroad company, for a survey of a route from Salisbury to the Tennessee line. 505.

Charter forfeited if the road is not completed within six years after the ratification of this act, 506.

An act to incorporate the Charleston, Blue Ridge and Chattanooga Railroad Company, 507.

Capital stock three millions of dollars, 507.

Union with other companies, 507.

Books to be opened, 507.

Shares to be fifty dollars each, 508.

One dollar may be called for at the time of subscribing, 508.

When the time of receiving subscriptions has expired the commissioner to deposit the money in bank, 508.

When three hundred thousand dollars shall be subscribed, the company become fully incorporated, 509.

Name and style of the corporation, 509.

Thirty days' notice to be given of a general meeting of the stockholders, 509.

Twelve directors to be elected at the meeting, 510.

Each director to hold at least five shares of the stock, 510.

The president and treasurer to be elected by the stockholders, 510.

Mode of voting, 510.

Vacancies, how filled, 511.

Requisitions for instalments may be made, 511.

If stock shall not be paid for, it may be sold, 511.

The debt of stockholders to be considered as of equal dignity with judgments in the distribution of assets of a deceased stockholder, 512.

Certificates of stock may be issued, 512.

Increase of capital stock, 512.

Directors may make contracts, 513.

RAILROADS, (*Continued.*)

May purchase and hold land, 513.

The company may construct the road across or along the side of any public road, 513.

They may not obstruct a public road without constructing one equally as good, 513.

How lands for the location of the road may be obtained, 513.

Duties of the commissioners in assessing damages, 514.

Commissioners to make report to court, 514.

Upon the report being confirmed and the damages paid, the land shall be vested in the company, 514.

An appeal from the decision of the commissioners may be made by either party, 514.

One hundred feet on each side of the track may be condemned, 515.

Two acres may be condemned for depots, &c., 515.

Company to have the exclusive right of transportation, &c., 515.

Charges to be so fixed, that the annual profits shall not exceed twenty-five per cent., 515.

Intrusion upon the road punishable, 516.

Damages to the road punishable, 516.

Semi-annual dividends may be made, 517.

How process may be served upon the company, 517.

Company may construct branches, 517.

Officers, &c., exempted from serving on juries, military service, and working on public roads, 517.

Stock, &c., not to be taxed higher than that of other railroads in the State, owned by citizens thereof, 517.

Transportation of troops, &c., to be free, 518.

Any future General Assembly may authorize the construction of a railroad to intersect with this road, 518.

Work to be commenced within three years and finished within ten, or the charter will be forfeited, 518.

RAILROADS, (*Continued.*)

An act to authorize the union of the Greenville and Roanoke Railroad Company with the Petersburg railroad Company, 519.

Union with the Petersburg Railroad Company allowed, 519.

Charter, when united, 520.

Duration of charter, &c., 520.

Property of both companies to be subject to pay all the debts existing at the time of union, against the Greenville and Roanoke Railroad company, 521.

Previous act reaffirmed, 521.

When this act takes effect, 521.

The Petersburg Railroad Company still liable for any penalty incurred heretofore, 522.

An act to amend an act entitled "An act to incorporate the North Carolina Railroad Company," 523.

How the subscription on the part of the State shall be paid, 523.

The affairs of the company to be managed by twelve directors, eight of whom are to be appointed by the governor, 523.

A director must be a *bona fide* stockholder, 524.

Regulation of votes, 524.

No person entitled to more than five hundred votes, 524.

How proxies are to be received, 525.

How land may be condemned for the road, 525.

The State directors not to enter upon their duties until July, 1853, 526.

An act to amend an act entitled "An act to incorporate the Raleigh and Gaston Railroad Company," 527.

Preamble, &c., 527.

Corporate title, 527.

Capital stock eight hundred thousand dollars, 528.

Shares to be one hundred dollars each, 528.

The State entitled to three directors, 529.

Four directors to be elected on the part of the company, 529.

RAILROADS, (*Continued.*)

Annual meetings, 530.

How the meetings are constituted, 530.

Directors may make contracts, 530.

No loan that will increase the capital stock of the company to be made, except with the consent of the stockholders, 531.

Stock of delinquent subscribers may be sold, 531.

Rights and powers of the company, 532.

Conveyance of troops, &c., 533.

No preference to be given in transportation of freight, 533.

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PUBLIC TREASURER'S REPORT

TO THE

LEGISLATURE OF

NORTH CAROLINA,

FOR THE

TWO FISCAL YEARS ENDING NOV. 1, 1852.

TREASURY DEPARTMENT, }
Raleigh, Nov. 19, 1852. }

SIR:—I have the honor to enclose herewith, to be laid before the General Assembly, a Report, shewing the condition of this office on the first inst.

I have the honor to be,

With very great respect,

Your obedient servant,

DANIEL W. COURTS,

Public Treasurer.

Hon. JOHN BAXTER,

Speaker of the House of Commons.

TREASURER'S REPORT.

TREASURY DEPARTMENT, }
Raleigh, Nov. 19, 1852. }

*To the Honorable the General Assembly of the State of
North Carolina :*

In obedience to "An Act of the General Assembly, entitled an act concerning the treasurer of the State," the public treasurer respectfully submits the following Report :

1st. Of the public or unappropriated revenue and expenditures.

The receipts into the treasury for the two last fiscal years, that is, from the 31st of October, 1850, to the 1st of November, 1852, are as follows :

1850.

Nov.	Received of Wm. H. Jones, cashier of the	
	• Bank of Cape Fear, dividend No. 82, on	
	122 shares of stock in said bank, belong-	
	ing to the State,	\$ 488 00
	Jacob Siler, agent for the collection of bonds	
	given for the purchase of Cherokee lands,	65 00
	T. L. Clingman, Attorney for the collection	
	of the same,	100 00

TREASURER'S REPORT.

Treasurer's Report, for the Fiscal

	Sundry persons, for State bonds, sold for the construction of the Fayetteville and Western Plank Road,	5,500 00
Dec.	Sundry persons, for State bonds, sold for the construction of the Fayetteville and Western Plank Road,	4,000 00
	Jacob Siler, agent for collection of bonds given for Cherokee lands,	462 00
	C. L. Hinton, public treasurer—this amount paid Judge Dick by mistake, for holding special term in Guilford county,	90 00
1851.		
Jan.	Walter Steele—this amount having been overpaid to him as a member of a former General Assembly,	6,00
	E. B. Freeman, clerk of the supreme court, tax collected on Attorney licenses,	210 00
Feb.	This amount borrowed of Richard Smith, under resolution of last General Assembly	10,000 00
	Wm. H. Jones, cashier of the bank of Cape Fear, under same resolution,	15,000 00
March.	J. T. Holt, sheriff of Alamance, public tax of said county for 1849,	1,843 02
April.	Jacob Siler, agent, &c.,	222 00
	Sundry persons for State bonds, sold under act of General Assembly, ratified January 28, 1851,	24,000 10
	For bonds sold for construction of Fayetteville and Western Plank Road,	10,000 00
May.	Premium on foregoing \$24,000 bonds sold under act of 28th Jan., 1851,	368 75
	Do. on \$10,000 bonds sold for construction of Fayetteville and Western Plank Road,	118 17

TREASURER'S REPORT.

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Years ending November 1st, 1852.

	Dividends on stock of the State, in Fayetteville and Western Plank Road,	1,200 00
	Dividends on 122 shares of the stock in bank of Cape Fear, belonging to public fund,	488 00
	Sundry persons for State bonds,	16,000 00
	Premium on bonds last sold,	160 00
June.	E. B. Freeman, tax on attorney's license,	180 00
July.	Tax of Warren county for 1850, from Thos. J. Judkins, sheriff,	3,800 40
	Tax of Alamance for 1850, from John Tabscott, sheriff,	1,944 40
	Hammond Whitney, treasurer of Seaboard and Roanoke Railroad Company,	323 22
	Sundry persons, for bonds sold for construction of Fayetteville and Western Plank Road,	24,000 00
	Premium on last mentioned bonds,	495 75
Aug.	Sundry sheriffs' public tax of 1850,	28,414 14
	Sundry persons for bonds sold in aid of Fayetteville and Western Plank Road,	6,000 00
	Premium on last mentioned bonds,	121 25
	O. G. Parsley, tax due on the stock of the Commercial Bank of Wilmington,	455 75
	C. Dewey, tax due on the stock held by individuals in the bank of the State,	2,243 25
	Wm. Clarke, cashier of the bank of Newbern, tax on the stock in said bank,	562 50
Sept.	Sundry sheriffs, public tax of 1850,	117,554 19
	W. G. Broadfoot, tax due on stock in bank of Fayetteville,	950 00
Oct'r.	Interest on Wilmington and Raleigh railroad bonds belonging to the State,	3,000 00
	Dividends on stock held by the State in Fayetteville and Western Plank Road,	2,400 00

TREASURER'S REPORT.

Treasurer's Report, for the Fiscal

	Tax on stock held by individuals in bank of Cape Fear,	2,389 00
	Sum of receipts for 1st year,	\$285,154 79
1851.		
Nov'r.	Wm. H. Jones, cashier, dividend No. 84 on 122 shares belonging to the State in bank of Cape Fear,	488 00
1852.		
Jan'y.	Sundry persons for State bonds, sold un- der act of Jan. 28, 1851,	23,000 00
	For bonds sold in aid of Fayetteville and Western Plank Road,	17,000 00
	Premium on the above \$23,000 bonds sold,	369 87
	Do. on the above \$17,000 of plank road bonds sold,	326 25
	Interest on bonds of Seaboard and Roan- oke Railroad Company,	323 22
	Interest on \$50,000 bonds of the Wil- mington and Raleigh Railroad Com- pany,	1,500 00
	E. B. Freeman, clerk of superior court, tax on attorneys' licenses,	400 00
	Thomas Griggs, administrator of Samuel B. Dozier, late sheriff of Currituck county, the tax due from said county for 1849, with interest,	1,053 68
Feb'y.	Sundry persons for State bonds sold,	17,000 00
	For plank road bonds sold,	3,000 00
	Premium on foregoing bonds for \$17,000,	251 85
	Premium on foregoing \$3,000 plank road bonds,	45 30
March.	Eli Smallwood, for difference in the pre- mium bid by him for State bond, and that at which it was afterwards sold upon his failing to comply with his bid,	29 40

TREASURER'S REPORT.

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Years ending November 1st, 1852.

	Sundry persons for State bonds,	30,000 00
	Premium on foregoing bonds,	322 50
	This amount borrowed of the bank of the State to pay State's subscription to Cape Fear and Deep River Navigation Company, under act of 27th January, 1849,	20,000 00
April.	J. McKee, treasurer of Buncombe Turnpike Company,	270 00
	Dividend No. 3, on stock held by the State in the Fayetteville and Western Plank Road Company,	4,200 00
May.	This amount on bonds sold,	33,000 00
	Premium on foregoing bonds,	457 00
	Dividends on 122 shares of stock in bank of Cape Fear,	488 00
June.	This amount of bonds sold,	26,000 00
	Premium on foregoing,	1,040 00
	H. B. Hammond, cashier of the bank of Wadesboro', tax on the stock of said bank,	420 25
July.	N. Kindal, for State bond,	1,000 00
	Premium on said bond,	15 10
	Interest on \$50,000, Wilmington and Raleigh railroad bonds,	1,500 00
	Interest on bonds of Seaboard and Roanoke railroad company,	323 22
	Tax on stock in bank of Washington,	475 00
	Tax on attorneys' license,	180 00
Aug.	Sundry sheriffs' public tax for 1851,	30,356 22
	O. G. Parsley, president of the Commercial bank of Wilmington, tax on stock in bank,	875 00
	W. W. Clarke, cashier of the Merchants' bank of Newbern, the State tax on stock in said bank,	562 50

TREASURER'S REPORT.

Treasurer's Report, for the Fiscal

Sept'r.	Public tax of 1851, from sundry sheriffs,	141,114 61
	Wm. G. Broadfoot, tax on stock in bank of Fayetteville,	950 00
	C. Dewey, cashier; tax on individual bank stock in bank of the State,	2,243 25
Oct'r.	N. S. Jarrett, agent for the State in Western Turnpike company,	59 65
	Wm. H. Jones, tax on individual stock in bank of Cape Fear,	2,389 00
	Dividend No. 4, on stock held by the State in Fayetteville and Western plank road company,	3,600 00
	Sum of receipts for second year,	366,728 88
	Aggregate receipts for two years,	\$651,883 67

The disbursements from the Public Fund for the last two fiscal years, that is, from the 31st of October 1850, to the 1st of November, 1852, are as follows :

FOR THE FIRST FISCAL YEAR.

Balance due public treasurer at the close of the last fiscal year,	9,167 77
Paid Wm. Angel this sum, he having overpaid the same on his bond given for the purchase of Cherokee lands,	7 05
On account of Judiciary,	29,373 00
Stationery,	280 02
Governor's house,	315 70

TREASURER'S REPORT.

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Years ending November 1st, 1852.

General Assembly,	45,685 08
Public library,	260 87
Pensioners,	675 00
Salisbury and Western turnpike,	1,128 82
State Capitol,	207 65
International exchanges,	300 00
Insane hospital,	14,203 76
Post Office,	284 68
Interest on State bonds,	11,939 84
Superintendent of public buildings,	260 00
Public printing,	7,978 43
Contingencies,	5,855 59
Cape Fear and Deep River Navigation Company,	40,000 00
Fayetteville and Western Plank Road Com- pany,	50,000 00
Fund for internal improvement,	330 75
Interest an Fayetteville and Western plank Road bonds,	2,803 00
Raleigh and Gaston Railroad,	66,465 93
Interest on State loan,	3,854 99
Executive Department,	2,273 00
Treasury do	2,000 00
State do	800 00
Comptroller's do	1,000 00
Adjutant General,	200 00
Council of State,	322 20
Copying Laws,	744 50
Sheriffs, for settling of tax,	1,365 40
Librarian,	300 00
Sheriffs, for comparing congressional vote,	698 63
State loan,	65,000 00
Capitol Square,	10 00
Insolvent Polls,	16 59
Public tax,	214 51
Sum of disbursements for first fiscal year,	366,342 76

TREASURER'S REPORT.

Treasurer's Report, for the Fiscal

DISBURSEMENTS FO THE SECOND FISCAL YEAR:

Paid Neuse River Navigation Company,	12,411 33
Insane Hospital,	28 918 45
Raleigh and Gaston Railroad,	64,306 00
Judiciary,	28,494 69
Pensioners,	290 00
Contingencies,	734 62
Fayetteville and Western Plank Road Company,	20,000 00
State Capitol,	161 02
Caldwell and Watauga Turnpike Company,	1,250 00
Executive Department,	2,423 00
Treasury do	2,000 00
State do	800 00
Comptroller's do	1,000 00
Adjutant General,	200 00
Librarian,	75 00
Superintendent of public buildings,	260 00
Post Office,	193 11
Public Printing,	1,844 20
Stationery,	265 10
Governor's house,	272 54
Sheriffs, for settling taxes,	1,459 40
Governor's election,	1,232 00
Public library,	161 10
Interest on State bonds,	16,243 13
Interest on plank road bonds,	5,906 88
Cape Fear and Deep River Navigation Company,	20,000 00
Geological Survey,	2,150 00
State Loan,	20,000 00
Fund for internal improvement,	137 87
Weights and measures,	170 70
Council of State,	122 00
Insolvent polls,	40 49
Capitol Square,	9 36

TREASURER'S REPORT.

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Years ending November 1st, 2852.

Sheriffs, for comparing senatorial vote,	231 35
Do for congressional election,	8 33
Bogue Banks,	107 66
Weldon and Gaston Railroad,	15,000 00
General Assembly,	375 12

Sum of disbursements for second fiscal year, 249,254 45

Sum of disbursements for two years, 615,597 21

Which, deducted from the receipts for two years, leaves balance in the hands of public treasurer on the 1st of November, 1852, of, \$36,286 46

LITERARY FUND.

1850.

RECEIPTS FOR THE FIRST FISCAL YEAR:

Nov.	Received of William H. Jones, cashier of the bank of Cape Fear, dividends on stock belonging to this fund,	21,288 00
	Interest on bonds of Wake Forest College,	600 00
	Tax from sundry auctioneers,	134 67
	On entries of vacant land,	1,285 41
Dec.	Andrew Joyner, treasurer of Roanoke Navigation Company, dividend of 1 3-4 per cent. on 500 shares of stock,	875 00
	Interest on bonds of Greensborough female college,	210 00

TREASURER'S REPORT.

Treasurer's Report, for the Fiscal

	Auction tax,	180 11
	On entries of vacant land,	1,972 57
1851.		
Jan.	From C. Dewey, cashier of the Bank of the State, dividend on shares of stock,	25,135 00
	Interest on bonds of Raleigh and Gaston Railroad Company,	4,449 00
	Interest on bonds of Wilmington and Raleigh Railroad Company,	4,117 50
	Auction tax,	4 10
	On entries of vacant lands,	1329 17
Feb.	George McNeill, agent for Cape Fear Nav- igation Company, dividend on State's stock,	650 00
	On entries of vacant land,	94 15
March.	Tavern tax,	9 40
	On entries of vacant land,	344 35
April.	Dividends from Cape Fear Navigation Company,	650 00
	On land entries,	287 72
May.	Dividends from the bank of Cape Fear,	21,288 00
	George McNeill, agent of Cape Fear Nav- igation Company,	650 00
	On land entries,	241 40
June.	Andrew Joyner treasurer of Roanoke Nav- igation Company,	750 00
	On entries of vacant land,	324 89
July.	C. Dewey, cashier of the bank of the State of North Carolina,	26,391 75
	Tavern tax,	94 00
	On land entries,	217 22
Aug.	Tavern tax,	721 92
	Entries of vacant land,	213 26
Sept.	Tavern tax,	4,735 72
	On entries of vacant land,	399 09

TREASURER'S REPORT.

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Years ending November 1st, 1852.

Oct.	Interest on Wake Forest College bond,	387 61
	Interest on Floral College bonds,	60 00
	Interest on Greensboro' College bond,	210 00
	Interest on Raleigh and Gaston Railroad bonds,	4,359 00
	Interest on Wilmington and Raleigh Railroad bonds,	4,117 50
	Auction tax,	99 24
	On land entries,	378 49
	Sum of receipts of first fiscal year,	\$129,255 24

Receipts into the Literary Fund from 31st October, 1851,
to 1st November, 1852:

1851.

Nov.	Received from Wm. H. Jones, cashier of the bank of Cape Fear, dividends on shares in said bank belonging to this fund,	21,288 00
	Auction tax from sundry auctioneers,	310 96
	On entries of vacant land,	363 89
Dec.	Dividends on shares in Roanoke Navigation Company,	750 00
	On land entries,	365 77
	Dividend on 4,000 shares of stock in Wilmington and Raleigh Railroad Company, belonging to Literary Fund,	12,000 00

TREASURER'S REPORT.

Treasurer's Report, for the Fiscal

1852.

Jan.	C. Dewey, cashier of the bank of the State, dividends on shares of stock in said bank,	25,135 00
	Interest on Floral College bonds,	60 00
	Interest on Greensboro' Female College bonds,	210 00
	Interest on Raleigh and Gaston Railroad bonds,	4,359 00
	Interest on Wilmington and Raleigh Rail- road bonds,	4,117 50
	Tavern tax,	31 96
	On land entries,	796 82
Feb.	Do. do.	356 46
March.	Do. do.	412 60
April.	Dividends on shares in Cape Fear Naviga- tion Company,	1,300 00
	Land entries,	480 30
May.	Dividends on — shares in bank of Cape Fear, belonging to Literary Fund,	21,288 00
	Land entries,	307 84
June.	Do.	184 66
July.	Dividends on — shares of stock in Bank of the State,	26,391 65
	Dividends on — shares of stock in Roanoke Navigation Company,	500 00
	Land entries,	234 69
Aug.	Tavern tax,	761 40
	Auction tax,	11 17
	On entries of vacant lands,	130 03
Sept.	Interest on Wake Forest College bonds,	546 11
	Do. Floral do.	60 00
	Do. Greensboro' do.	210 00
	Do. Raleigh and Gaston Railroad bonds,	4,200 00
	Do. Wilmington and Raleigh do.	4,117 50
	Tavern tax,	4,446 20

TREASURER'S REPORT.

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Years ending November 1st, 1852.

	Land entries,	294 09
	Interest on plank road bonds,	161 34
Oct.	Tavern tax,	9 40
	Auction tax, per sundry auctioneers,	301 20
	Land entries,	886 78
	Sum of receipts for second fiscal year,	\$137,380 41
	Aggregate receipts for two years,	\$266,635 65

The disbursements from the Literary Fund, for the two fiscal years, from the 31st October, 1850, to 1st November, 1852, are as follows :

1850.

FOR THE FIRST FISCAL YEAR:

Nov'r.	Paid on account of common schools,	27,742 55
	Expenses of literary board,	20 00
Dec'r.	Common schools,	8,136 50
	Education of deaf and dumb,	1,400 00
	Expenses of literary board,	47 60
	Pay of members of literary board,	120 00
Jan.	Common schools,	3,432 00
	Education of deaf and dumb,	135 00
Feb.	Common schools,	966 00
	Education of deaf and dumb,	1,913 00
March.	Common schools,	894 00
	Education of deaf and dumb,	50 11
	On account of swamp lands,	9 00
	Expenses of literary board,	52 00

TREASURER'S REPORT.

Treasurer's Report, for the Fiscal

April.	Common schools,	212 00
	Education of deaf and dumb,	200 00
	Expense account,	78 25
May.	Common schools	18,712 86
	Education of deaf and dumb,	1,100 00
	Caldwell and Ashe turnpike,	3,280 67
	Expense account,	18 75
	Pay of members of literary board,	336 70
June.	Common schools,	10,175 46
	Education of deaf and dumb,	723 00
July.	Common schools,	3,983 34
	Education of deaf and dumb,	1,000 00
	Expense account,	20 12
Aug.	Common schools,	1,913 04
	Education of deaf and dumb,	800 00
	Expense account,	11 25
	Pay of members of literary board,	151 35
Sept.	Common schools,	3,852 52
	Education of deaf and dumb,	1,000 00
	Deaf and dumb asylum,	300 00
Oct.	Common schools,	1,309 34
	Education of deaf and dumb,	500 00
Nov.	Sum of disbursements for first year,	<u>\$94,596 41</u>
	Paid on account of common schools,	23,675 23
	Do deaf and dumb,	1,400 00
Dec.	Common schools,	46,240 64
	Education of deaf and dumb,	2,960 00
	For printing,	169 37
1852.		
Jan.	Common schools,	8,455 78
	Education of deaf and dumb,	700 00
	Printing,	112 50
	Pay of members of literary board,	120 00
	Deaf and dumb asylum,	3,721 70

TREASURER'S REPORT.

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Years ending November 1st, 1852.

Feb.	Common schools,	5,325 72
	Education of deaf and dumb,	2,000 00
M'rch.	Common schools,	886 00
	Education of the deaf and dumb,	600 00
	Printing,	191 00
	Per diem of members of the literary board,	84 00
April.	Education of deaf and dumb,	1,460 00
	Printing,	135 00
May.	Common schools,	33,950 88
	Education of the deaf and dumb,	1,000 00
	Printing,	10 00
June.	Common schools,	13,064 49
	Education of deaf and dumb,	1,900 00
	Printing,	22 00
July.	Common schools,	4,370 16
Aug.	Do " "	2,781 30
	Education of deaf and dumb, "	200 00
	Printing,	39 50
Sept.	Common schools,	5,184 71
	Printing,	41 78
	Pay of members of literary board,	288 00
Oct.	Common schools,	416 22
	Draining swamp lands,	7 20
	Printing,	19 15
Sum of disbursements for second year,		161,472 33
Aggregate disbursements from Literary fund for two fiscal years,		256,068 74
Aggregate receipts for two years,		266,635 65
Subtract disbursements for two years,		256,068 74
Leaves		10,566 91
Add balance due this fund, Nov. 1, 1850,		118,192 67
Leaves balance due this fund, Nov. 1, 1852,		128,759 58

TREASURER'S REPORT.

Treasurer's Report, for 1851-2.

RECAPITULATION.

Balance due Public Fund, Nov. 1st, 1852,	\$36,286 46
Do. Literary Fund,	128,759 58
	\$165,046 04

Which is disposed of as follows :

Deposited in Bank of the State,	88,196 39
Do. in Bank of Cape Fear,	75,306 16
Receipts of members of Assembly for advancements to them, and cash in the vault of the treasury,	1,543 49
	\$165,046 04

In March last, under a resolution of the president and directors of the Literary Board, requesting me to make a calculation of the interest due the Literary Fund for money used by the public treasurer, belonging to this fund, for the purposes of the public fund, since 1846, I made said calculation, and found the amount to be \$24,117 36. This amount will also be placed to the credit of the Literary Fund, after the calculation shall have been examined by the committee of Finance.

TREASURER'S REPORT.

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ESTIMATE of Receipts into the Public Treasury, for the two fiscal years commencing Nov. 1, 1852, and ending Oct. 31, 1854.

	1853.	1854.
Public taxes received of sheriffs, exclusive of trust funds,	\$ 150,857 96	\$150,857 96
Tax on attorneys' licenses,	700 00	700 00
Do. on individual bank stock,	7,915 00	7,915 00
Dividends from turnpike compa- nies,	1,000 00	1,000 00
Interest on \$50,000 of Wil. and Ral. railroad bonds belonging to State,	3,000 00	3,000 00
Interest on bonds of S. and R. railroad company belonging to the State,	646 44	646 44
Dividends on 122 shares of stock in Cape Fear Bank, belonging to public fund,	976 00	976 00
Dividends in stock held by the State in Raleigh and Gaston railroad company,	20,000 00	20,000 00
Dividends in Fayetteville and Western plank road company,	9,600 00	9,600 00
Claim on General Government for advancements to our volun- teers in war with Mexico,	9,567 73	
Premium on \$75,000 State bonds, proposed to be sold in aid of the Weldon and Gaston rail road now being constructed,	1,343 86	
This amount to be returned to the treasury, upon sale of fore- going bonds, it having been advanced in anticipation of said sale, in aid of said work,	15,000 00	
Premium on \$65,000 of State bonds, proposed to be sold for the improvement of the navi- gation of the Neuse and Tar rivers,	1,164 68	
This amount to be returned to the treasury upon sale of last		

TREASURER'S REPORT.

ESTIMATE of Receipts into the Public Treasury for the two fiscal years commencing Nov. 1, 1852, and ending 31st Oct. 1852.

	1853.	1854.
mentioned bonds, it having been advanced as above in aid of navigation of Neuse river,	12,411 33	
Premium on \$2,000,000 State bonds, to be sold in 1853 and 1854, in aid of North Carolina railroad,	17,918 26	17,918 26
	\$ 252,101 26	\$212,613 66
Aggregate receipts,		\$464,714 92

TREASURER'S REPORT.

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ESTIMATE of Disbursements from the Treasury for the fiscal years commencing Nov. 1, 1852, and ending Oct. 31, 1854.

	Principal.	1853. Interest, &c.	1854. Interest, &c.
1. On account of Raleigh and Gaston R. R. bonds, endorsed by State,	\$500,000 00	\$30,000 00	\$30,000 00
2. Do interest and \$30,000 principal in 1853, and interest and \$15,000 principal in 1854,	45,000 00	31,800 00	15,450 00
3. Balance of cost of Geological survey,		7,850 00	
4. Amount of States subscription to McDowell & Ashe turnpike company,		3,000 00	
5. Amount standing to the credit of literary fund, Nov. 1, 1852,	128,757 78	7,725 46	7,725 46
6. This am't. found due literary fund, as interest on 1st April, 1852, for money used from time to time in aid of public fund,	24,117 36	1,447 04	1,447 04
7. On bond belonging to literary fund,	40,360 00	2,421 60	2,421 60
8. In't. on State bonds issued for construction of Fay. and W. plank road,	120,000 00	7,200 00	7,200 00
9. On State bonds issued to meet State liabilities generally,	370,000 00	22,200 00	22,200 00
10. Do on 1-2 the sum estimated as necessary to construct a railroad from the S. and R. railroad to R. and G. railroad, supposed to be \$75,000 bonds to be issued,	75,000 00	2,250 00	4,500 00

TREASURER'S REPORT.

Estimate of Disbursements from the Treasury for the fiscal years commencing Nov. 1, 1852, and ending 31st. Oct 1854.

	Principal.	1853. Interest, &c.	1854. Interest, &c.
11. Do on do to be issued in aid of navigation of Neuse and Tar rivers,	\$65,000 00	\$1,950 00	\$3,900 00
12. Do on bonds to be issued for construction of N. C. railroad, \$500,000 to be issued 1st Jan. '53,	500,000 00	15,000 00	30,000 00
\$500,000 to be issued 1st July, 1853,	500,000 00		30,000 00
\$500,000, 1 Jan. '54,	500,000 00		15,000 00
\$500,000, 1 July, '54,	500,000 00		
13. Add ordinary expenses for State Gov. varied each alternate year by the meeting of the General Assembly,		75,000 00	75,000 00
Disbursements,		207,484 10	\$244,844 10
Aggregate Disbursements,			\$451,688 20
Aggregate Receipts,			464,714 92
Balance in favor of Receipts,			\$13,026 72

For the two Fiscal Years ending November 1st, 1852.

In order to a clear understanding of a portion of the items which enter into the foregoing estimates, some explanation is necessary. In the first place, I have put down only that portion of the tax, collected by sheriffs, which belongs to the Public Fund. The tavern tax collected by them, is one of the numerous sources of the Literary Fund, none of which belong to this list, because the receipts into it are distributed as fast as they accumulate for the benefit of the Common Schools of the State. It is proper to remark, that the receipts into this fund are now being much increased by dividends from the Wilmington and Raleigh Railroad Company. The last dividend of six per cent. on the stock held by the State in this company, will be received in a few days. And I have also excluded that portion of the tax collected by the sheriffs for the Lunatic Asylum. You will receive from the commissioners of this asylum, a detailed report of the progress of the building. There has been collected for its construction and paid into the treasury in all, \$80,572 26.

And there has been paid out on account of it, \$49,689 84, leaving a balance still due that fund, of \$30,882 42.

The Raleigh and Gaston Railroad, after having been long a drain upon the Treasury, at last promises soon to come to its relief. I think the estimate of \$20,000 a year on the State's stock in it for 1853 and 1854, will be found to be a moderate one, because its business now, though the repairs upon it are not completed, is much larger than at any former period, and, because the Weldon and Gaston Railroad, which is designed to connect it with the Seaboard and Roanoke Railroad, is expected to be completed about next January, thus

Treasurer's Report, for the two Fiscal

connecting the Raleigh and Gaston Railroad directly with the ocean.

Moreover, this Weldon and Gaston Road, is, when constructed, to form a part of the Raleigh and Gaston Road, and therefore no separate estimate is made of the receipts from that road.

Since the last session of the General Assembly, the balance of the State's subscription to the Fayetteville and Western Plank Road Company has been paid off. The State now owns \$120,000 ; that is three-fifths of the stock in it. This road is paying a handsome dividend into the Treasury.

The premium received on the State's bonds, sold to pay her subscription in aid of the road, and the dividends declared on her stock, exceed the amount of interest she has paid on the bonds thus issued.

From very recent information of the business, the road is now doing, I think the estimate of the receipts from it is moderate enough.

Our claim on the General Government for advancements to our volunteers in the Mexican War, has been allowed, and, in answer to my inquiries at the proper department, I have been advised that the funds will be forwarded in a few days.

By an act of the General Assembly of January 27th, 1840, the Treasury was authorized to advance to the Seaboard and Roanoke Railroad Company, one-half of the sum estimated to be necessary, to form a connection between that Railroad and the Raleigh and Gaston Railroad, whenever the Seaboard and Roanoke Railroad Company should subscribe and expend the other half, and for this purpose the Treasurer was authorized either to issue bonds or to advance the money from the Treasury.

Years ending November 1st, 1852.

On the 9th of October last, regarding the condition as having been complied with, I advanced from the Treasury \$15,000.

I preferred advancing the amount from the Treasury at the time, rather than issuing bonds, because of the large amount then standing to my credit in the banks; but it is proposed in these estimates to return that amount again to the treasury, when, from its condition, it shall become necessary to issue bonds on account of the appropriation for this work. It is supposed that the whole amount the State will have to advance for this purpose, is \$75,000.

So, by the fifty-first section of the same act, the treasurer is authorized, when certain specified conditions are complied with, to advance, either by the sale of State bonds or the means in the treasury, \$65,000, for the improvement of the Neuse and Tar River.

Under this section, I have advanced, upon the warrants of the Governor, \$12,411 33, on account of the Neuse River.

This amount it is proposed also to return to the treasury, upon the sale of State bonds for this appropriation. My reason for adopting this course was, that while I did not suppose the Legislature expected so large an amount as the whole of these two appropriations to be advanced from the means in the treasury, I, at the same time, did not suppose they expected the treasurer to issue bonds and pay interest on them so long as the condition of the treasury would enable him to meet calls for a portion of these appropriations.

These estimates are made on the assumption that bonds for these two sums of \$75,000 and \$65,000, as

Treasurer's Report, for the two Fiscal

also of \$500,000 for the North Carolina Railroad, will be issued on the 1st of January next, and \$500,000 for the latter object, every six months, until \$2,000,000 are issued for it, according to the act of 27th January, 1849; and interest is calculated on them accordingly; but this is done more out of safety, than from a conviction that calls for all these sums will be made that soon.

I have estimated the premium on these State bonds proposed to be sold, at the average rate at which I have sold the bonds that have been issued since I came into this office; but the amount of premiums that will in the end be obtained on them, will, I feel confident, depend very much upon the action of this Legislature in relation to the form of bonds to be issued, and also upon the point at which it shall be finally agreed to pay them, principal and interest. If the form heretofore used, is adhered to—and the treasurer has certainly no power to change it—for the act above mentioned, under which these issues are all to be made, expressly adopts the present form,—then I think the large amount which we shall throw into the market will depress them below the rate here set down. Because, for such an amount, we must look mainly to bidders from abroad, as it hardly can be supposed, that there is unemployed capital enough in the State to absorb them; and this form will not suit that description of bidders, for the following reasons: Ours are what are called “Registered,” as contra-distinguished from “Coupon” Bonds. The Acts of Assembly, under which they are issued, require, in every case in which one of them is transferred after the first issue, that the party transferring it shall come to this office himself, or send an

Years ending November 1st, 1852.

agent, with a power of attorney, to have the transfer entered upon the books of the office ; and the treasurer, after cancelling the old bond, issues a new one to the purchaser. So, also, as often as the interest is paid, which is semi-annually, it is the duty of the holder of the bond, to give a receipt himself on the books of the office, or to do so by an agent, properly constituted as above.

These formalities so encumber the transfer of the bonds and the collection of interest on them, that, while they render them not so desirable, even for a *home* market, they constitute so serious an objection to persons at a distance, that many dealers in State stocks will not bid for them at all. I respectfully recommend therefore, that the form be changed so as to make them payable to——or bearer, with Coupons attached.

The bond being thus payable, can be transferred and converted into cash at once, without the troublesome and tardy process through which the parties have to go in every sale of our bonds as now issued ; while each coupon, which expresses the semi-annual interest on the bond to which it is attached, is easily clipped off as the interest becomes due and may be passed from hand to hand in any part of the world as easily as a bank bill. And this dispenses with the services of an agent to collect, receipt for, and transmit, at the same time avoiding all risk of loss by transmission or the faithlessness of agents.

Hence, such bonds are more sought after by those wanting to make permanent investments, than any other public securities.

Finally, what seems to be conclusive in favor of the change, is, that bonds like these bring in the market a

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much better price than those of our present form, issued by the same State, bring. But, after all, if we would have our bonds enter into fair competition with those of other States of the Union, we should not only adopt this form, as they have done, but should, like the most of them, make ours payable where the parties purchasing prefer it, at some well known bank in the city of New York—the great moneyed mart of this continent, and with which Europeans have a free and direct intercourse. It is believed that most of the bonds of other States are purchased by Europeans, through their agents in this country. By this means, the holders of our bonds would find no difficulty in collecting either the interest or principal. I submit whether it would not be well enough also to pass an act giving the privilege to those holding our present bonds, to have them changed into this form, upon their surrendering the old ones, and paying a certain per cent. for it. These changes, if carried out by the Assembly, will increase, for a time, very much, the labors of this office, but will, I think, in the end greatly simplify this branch of it.

It is to be borne in mind that these estimates are, of course, confined to the two fiscal years commencing first November, 1852, and ending the 31st October, 1854, and yet it is important that this Legislature should be able to form, as far as practicable, so far in advance, a correct opinion of the receipts and disbursements for the fiscal year commencing the 1st November, 1854, and ending the 31st October, 1855; because, if the calls upon the treasury for that year are expected to exceed its means, this Legislature can, if they prefer to do so, make provision by increased

Years ending November 1st, 1852.

taxation to aid the treasury in that year ; whereas, if this duty is devolved upon the next Assembly, no tax bill passed by them, under our system of laying the tax one year and collecting it the next, can take effect soon enough to increase the revenue of that year. It is, therefore, proper to remark, that there will have to be paid in that year \$45,000 more, by way of interest on the State bonds, for the North Carolina Railroad, than there will be for that purpose in 1854. While the only probable increase of the revenue in that year, over that of 1854, would seem to be promised by our public works. What that increase will be, it is, in the present incomplete state of the most of them, difficult to estimate with any reliable approach to accuracy. In case any additional appropriations are made by this General Assembly, I hope I shall be pardoned for recommending that provision be made to meet them by an increase of the revenue of the State, on account of the important bearing it may have upon the credit of the State bonds to be sold, as capitalists, especially those residing out of the State, will examine with scrutiny into the State's resources, and will not fail to enquire whether the policy of the State seems to be to borrow money to pay interest, which is the mere exchange of one creditor for another, or to prevent, by taxation, the accumulation, from year to year, of that description of debt. Still, I suppose you will deem it advisable, in order to provide for every contingency, and to preserve, in any event, the credit of the State, to give the treasurer the usual authority to raise money, either by issuing bonds or otherwise, not exceeding a certain amount, to meet any lawful demands upon the treasury.

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I have not included, in the list of estimated disbursements, the interest on \$250,000 of Wilmington and Raleigh Railroad bonds, endorsed by the State, because of the promptness with which that company meets the payment of this interest. From this list, you will perceive that the debt of the State on which she is now paying interest, was, on the 1st of November, 1852, \$1,228,235 14. And, from the same list, you will discover that the additional amount of debt authorized to be contracted under existing laws, is \$2,140,000.

It will be seen, that I have sold since I came into the office in January 1851, \$60,000 of State bonds, to pay off the balance of the State's subscription to the Fayetteville and Western Plank Road Company. And, also, \$170,000 to meet the liabilities of the State generally. And, on the other hand, it will also be seen from the tabular statement, that, besides discharging the ordinary expenses of the State, including the interest upon her debt, the sum of \$101,000 of the principal of her debt has been paid off, including \$40,000 to the bank of Cape Fear, while a large amount has also been advanced in aid of some of the works in which she is engaged, to wit: The navigation of the Cape Fear and Deep River, the construction of the Weldon and Gaston Railroad, the Geological survey of the State, turnpike roads, the navigation of the Neuse River, &c. These bonds were all advertised, inviting sealed proposals, and after the time for advertising had expired, the bids were opened in the presence of the Comptroller of the State and other gentlemen, and a record made of the whole proceeding, to which the attention of the Committee of Finance is invited.

Years ending November 1st, 1852.

On each of the bonds sold, a premium was obtained, amounting in the aggregate to \$4,121 19.

I discovered, upon my first sale of some bonds for the construction of the plank road in April, 1851, that the act authorizing their issue, unlike the other acts authorizing the issuing of State bonds, was silent as to the transferable quality of these bonds. I recommend, therefore, that this act be so amended as to be made to conform to the other acts in this particular, for if the privilege be given to the present holders of these bonds, to change them as recommended in a former part of this report, some of them may not think proper to avail themselves of it.

I deem it my duty to bring to the attention of the Legislature the fact, that the law in relation to land entries is liable to abuse as it exists.

The law allows any one to take up the vacant land of this State, at five cents per acre, provided he does not take up more than one hundred acres in any one year; but if he takes up more than that quantity, in any one year, then he is required to pay ten cents per acre into the treasury. This latter provision, it is believed, is often evaded, to the injury of the treasury, by the party who wishes to appropriate to himself more than one hundred acres in one year, by his using the names of other persons, most generally those of his own family. In this way, much of the vacant land of the State is taken up at five cents per acre, in cases where the Legislature designed that ten cents should be paid, and that, too, when this land is increasing in value, by reason of our public works and other causes.

In October, 1851, J. W. Patton, Esq. resigned the office of State director in the Buncombe Turnpike

Treasurer's Report, for 1851-2.

Company, and by virtue of the authority in me vested I appointed J. R. Osborne, Esq., of Buncombe, to fill his place.

All the sheriffs of the State have accounted for the tax due in 1851 and 1852, except the sheriff of Yancy, who failed to pay the amount due from his county in 1851. Judgment has been obtained upon his bond, but the proceeds have not yet reached this office.

The claim against the General Government, spoken of in a former part of this report, as forming a portion of the estimated receipts of the fiscal year commencing the 1st November, 1852, has been received since the first instant, and will consequently appear in its proper place, in the next report from this office. I transmit herewith, such bank exhibits as have been forwarded to this office since the last session.

Respectfully submitted,

DANIEL W. COURTS,

Public Treasurer.

BANK STATEMENTS

ACCOMPANYING

THE TREASURER'S REPORT.

[Transmitted with the Report of the Public Treasurer to the House of Commons, and sent to the Senate with a proposition to print.—Ordered to be printed.]

The state of the Bank of Washington, Friday, Dec. 5, 1851.

*Bills and notes discounted,	146,614 42	Capital stock paid in,	112,076 25
Bills of exchange,	40,679 57	Due to other banks,	
Bank expenses,	2,403 58	Bank of Fayetteville,	1,244 19
Salary account,	987 21	Bank of State, Tarboro',	70 50
Due from other Banks,			
Merchants' Bank Newbern,	3,879 95	Deposits,	1,314 69
Commercial bank Wilmington,	1,284 00	Bank note circulation,	13,749 49
Bank of the State Raleigh,	2,191 52	General profit and loss	97,587 00
Do do E. City,	392 63		4,780 39
Do do Newbern,	2,565 00		
Mechanics' bank Baltimore,	1,290 09		
Fulton bank New York,	2,294 80		
Cash on hand,			
Specie,	14,251 95		
Notes and checks on other North Carolina banks,	10,673 10		
	24,925 05		
	<u>\$229,507 82</u>		<u>\$229,507 82</u>

*Of this sum there is due by Directors,
Due Stockholders not Directors,

\$4,225 00
28,037 00

M. STEVENSON, Cashier.

General Statement, showing the condition of the Bank of the State of North Carolina, Nov. 22, 1851.

	\$		\$		\$
Notes discounted,	2,084,489 43		Capital Stock	311,759 00	\$1,500,000 00
Suspended debt,	49,088 64	2,133,578 07	General profit and loss	2,548 40	314,307 40
Bonds Rail' and Gas'n Railroad,	83,000 00		Contingent fund		
Rockfish Manufacturing Company,	10,000 00	93,000 00	Pension Agent		1,236 61
Bills of Exchange,		522,111 73	Pub. Treas. of North Carolina		39,733 93
Real Estate,			Due to other Banks		
Dze from other Banks,			O. J. Camann, cas. N. Y.	14 25	
Merchants' Bank, Boston,	3,893 74	5,199 97	Mechanic's Bank of do.	4,879 13	4,893 38
Fulton Bank, New York,	56,795 58	60,689 32	Union Bank of Md., Balt.,		656 50
Merchant's Bank, New York,			Bank of Va., Norfolk,		
Farmers' and Mechanic's, Phila.,	1,908 92	1,956 28	Farmers' Bank of Va., Norfolk,	804 92	
Bank of North America, do	47 36	1,095 82	Exchange Bank, Clarksville,	280 84	
Merchant's Bank, Baltimore,		6 18		2,761 36	
Bank Metropolis, Washington,	21,108 03		B'k of Cape Fear, Wilmington,	326 54	3,487 12
M'Ilwaine, Brownley & Co., Pet.,	6,279 23		B'k of Washington, Wash.,	1,986 25	2,312 79
Bank of Virginia, Petersburg,	1,656 54		Notes in circulation:		
do Danville,	2,777 25		Issued by pr'l b'k, Raleigh,		
Farmers' Bank of Va., do	1,363 51		Do branch Newbern,	119 397 00	
Exchange Bank, Norfolk,			Do Tarboro',	156,399 00	
Bank of Charleston, Charleston,	2,386 55	33,185 16	Do Fayetteville	180,169 00	
Planters' and Mechanic's, do	1,460 70	3,486 72	Do Wilmington'n	209,682 00	
Bank of Cape Fear, Washington,			Do Eliz. City,	156,937 00	
do do Salisbury,	1,938 75		Do Charlotte,	256,513 00	
Notes of other Banks,	11 79	1,950 54	Do Milton,	190,226 00	
Virginia,		3,820 00	Do Morganton,	178,362 00	\$1,447,685 00
			Dividends unpaid,		\$1,614,714 00
			Deposits,		2,692 00
					331,735 64

North Carolina,
South Carolina,

Specie, Gold Coin,
Do Bullion,

Silver, do
Bills and Checks in transitu,

91.027 00	101.235 00
6.398 00	
580 062 20	
63 643 68	
643.705 78	
160.343 09	
	804.048 87
	13.109 10
	<u>\$3.816.128 37</u>

\$3.816 128 37

Of Notes discounted, referred to by * in the first line of this Statement, there is due by Directors,
Stockholders not Directors,

79.503 78

40 756 60

Dollars,

\$120.260 38

C. DEWEY, Cashier.

The State of the Bank of Fayetteville, 1st December, 1851.

To bills and notes discounted	\$642,323 08				\$380,000 00
Bills of exchange,	52,378 77				390,581 00
Bank of New York,	2,898 55		\$694,701 85		4,055 18
Philadelphia Bank,	2,861 77				44,623 09
Bank of Baltimore,	9 48				798 00
Merchants' Bank, Cheraw, S. C.,	5,000 00				3,038 21
Commercial Bank, Wilmington,	1,401 82				18,285 72
Bank of Washington,	830 68		5,856 80		
Salaries and bank expenses,					
Real estate,			7,232 50		
Cash, notes			4,124 38		
Banks N. C. and checks,	31,833 98		1,276 64		
Banks of Virginia and South Carolina,	4,062 00				
Specie,	92,293 05		128,189 03		
			\$841,381 20		\$841,381 20

W. G. BROADFOOT, Cashier.

BANK OF FAYETTEVILLE, Dec. 5th, 1851.

State of the Merchants' Bank of Newbern, on Tuesday, the 25th November, 1851.

Bills Receivable,	\$ 219,748 44	Capital Stock,	\$ 225,000 00
Suspended Debt,	2,523 55	Notes in circulation,	119,408 50
Bills of Exchange,	72,277 22	Deposits,	48,515 36
Real Estate,	7,174 80	General Profit and Loss,	21,251 49
Due from other banks,	37,386 85	Dividends unpaid,	1,488 00
Notes of North Carolina banks,	28,916 00	Due to other banks,	9,378 33
Gold and silver,	62,014 82		
	<u>\$ 425,041 68</u>		<u>\$ 425,041 68</u>

WM. W. CLARK, Cashier.

State of the Bank of Washington, Wednesday, June 3d, 1852.

[illegible]

M. STEVENSON, Cashier.

Virginia,	6,074 00	Do	Fayettev'e,	177,009 00
South Carolina,	7,967 00	Do	Wilm'ton,	257,382 00
North Carolina,	59,475 00	Do	Eliz. City,	152,297 00
Specie, Gold Coin,		Do	Charlotte,	287,615 00
do Bullion,	349,556 34	Do	Milton,	209,949 00
	63,648 68	Do	Morganton,	173,953 00
Silver, do	454,014 59	Dividends unpaid,		1,642,520 00
Cents,	201,730 81	Deposits,		912 00
	28 40			320,090 74
Bills and Checks in transitu				
		655,774 00		
		8,729 28		
		<u>\$3,947,782 55</u>		<u>\$3,949,782 55</u>

* Of this sum there is due by Directors,
Stockholders not Directors,

98,792 48
26,148 95

Dollars,

\$124,941 43

C. DEWEY, Cashier.

State of the Bank of Washington, Wednesday December 1, 1852.

RESOURCES.		LIABILITIES.	
Bills and notes distributed,	\$247,640 26	Capital stock,	\$190,000 00
Bills of exchange (Foreign,)	142,487 24	Bank note circulation,	238,402 00
Bank expenses,	10 98	Deposits,	17,036 39
Salary account,	175 00	Dividends unpaid,	2,449 72
Bank property,		Contingent fund,	4,000 00
Due from other banks, viz:		Due to other Banks, viz:	
Bank of the State, Raleigh,	\$568 13	B'k. of State, Tar.	\$837 05
Bank of State Elizabeth City,	119 58		
Commercial B'k. Wilmington,	1,216 20		
Merchants Bank Newbern,	2,497 25		
	4,401 25		

Ful. B'k. New York, \$4,514 72
 Mechanics Bank Baltimore, 1,490 66
 Bank of Virginia, Norfolk, 1,862 58

Cash on hand, viz:

Specie,
 Notes of other Banks and checks,

Amount due by directors \$17,726 00
 Do " Stkr's. {
 not Dir. } 23,159 70

\$7,867 95

50,672 24

6,839 98

40,885 70

Bank of Newbern, \$2,000 00
 Bank of Fayetteville, 1,743 48

\$12,269 10

Profit and loss,

57,512 17

\$460,912 75

\$4,580 53

4,444 11

460,912 75

M. STEVENSON, Cashier.

State of the Bank of Fayetteville, 10th May, 1852.

To bills and notes discount'd	\$669,519 77	By Capital Stock	\$380,000 00
Bills of exchange	47,365 66	Bank Note account	520,000 00
Bank of New York	3,073 55	Br. Bank Va., Petersburg	20 40
Philadelphia bank	291 94	Com. Bank Wilmington	146 42
Bank of Baltimore	888 00	Bank of Wadesborough	825 08
		Bank of Washington	947 40
Br. Bank of Cape Fear, Salem			1,939 30
Salary account	1,212 50	Dividends unpaid	1,240 00
Bank expenses	127 34	Deposites	39,107 70
Real estate			40,347, 70
Cash Notes, Bank of Fayetteville	120,356 00	Discount received	14,376 97
Bank of State and branches	16,051 00	Profit and loss	2,550 81
Bank of Cape Fear do	12,922 00		
Merchants bank Newbern	2,161 00	Surplus	
Com. Bank of Wilmington	4,633 00		16,927 78
Banks of South Carolinolina	4,847 00		5,171 69
Do of Virginia	65 00		
Checks on Bank Cape Fear	425 00		
Specie	79,364 67		
	\$964,386 47		\$964,386 47

W. G. BROADFOOT, Cashier.

Bills and notes discounted,	\$680 635	82		Capital stock,	380,000 00
Bills of exchange,	97,762	78	778,398 60	Circulation,	445,368 00
Bank of New York,	560	99		Bank of Wadesboro'	187 01
Philadelphia Bank,	158	25		Dividend unpaid,	1,280 00
Bank of Baltimore,	74	37		Deposits,	32,925 09
Branch bank of Va., Petersburg,	76	87			
Br. bank of State, Wilmington,	3,143	00	870 48	Discount received,	13,990 00
Br. bank Cape Fear, Greensboro',	208	05		Profit and loss,	2,749 66
Bank of Washington,	1,893	48		Surplus,	
Com. bank of Wilmington,	166	54			
Bank expenses,			5,411 07		16,739 66
Real estate,			2,258 73		10,000 00
Cash, notes and ch'ks b'ks N. C.,	19,014	91	1,926 64		
Notes of banks of Va. and S. C.,	5,226	00			
Specie,	73,393	33	97,634 24		
			886,499 76		
					\$886,499 76

W. G. BROADFOOT, Cashier.

Bank expenses,	\$1,085 11	2,311 34
Real estate,	1,926 64	
Bank building,	4,694 39	8,820 03
Cash, notes Bank State N. C. and branches,	8,445 00	
Bank Cape Fear, N. C.	4,705 00	
Bank Wadesboro', N. C.	219 00	
Merchant's Bank, Newbern,	188 00	
Com. Bank, Wilmington,,	6,281 00	
Banks South Carolina,	3,920 00	
Banks Virginia,	283 00	
Specie,	71,147 97	95,085 97
		\$902,053 42

\$902,053 42

W. G. BROADFOOT, Cashier.

BANK OF FAYETTEVILLE, November 30, 1852.

Statement of the Commercial Bank of Wilmington, on Saturday, May 29, 1852,

Notes discounted	\$414,628 29	Capital Stock	350,000 00
Bills of Exchange	235,063 07	Notes in circulation	366,293 00
Due from other banks, viz:		Due to other banks, viz:	
Union Bank, Boston	1,496 09	Bank of Fayetteville	5,164 42
Merchants' Bank New York	1,225 84	Merchants' Bank Newbern	2,931 05
Bank of North America, Philadelphia	263 00		
Merchants' Bank, Baltimore	1,132 32	General profit and loss	8,095 47
Ex. Bank of Va., Norfolk	85 52	Dividends unpaid	16,431 46
Do do Richmond	520 43	Due to depositors	65,229 51
Bank of Charleston, S. C.	6,246 99		65,325 51
Bank of Cape Fear	27,521 69		
Br. Bank of State, Wilmington	12,496 85		
Bank of Washington, N. Carolina	1,068 01		
Real estate, banking House			
Cash in Specie	49,810 06		
In notes and checks on other banks	46,704 42		
	\$806,145 44		\$806,145 44

E. E. T. SAVAGE, Cashier.

State of the Merchants' Bank of Newbern, on Monday, the 31st of May, 1852.

Notes discounted,	\$247,965 33	Capital stock,	\$225,000 00
Suspended debt,	1,595 00	Notes in circulation,	149,272 00
Bills of exchange,	101,502 89	Deposites,	59,708 50
Real Estate,	7,174 80	General profit and loss,	23,511 61
Due from banks,	39,910 50	Dividends unpaid,	2,049 50
Notes of other banks,	9,656 00	Due to banks,	3,815 18
Specie,	55,552 27		
	<u>\$463,356 79</u>		<u>\$463,356 79</u>

WM. W. CLARK, Cashier.

Statement Showing the Condition of the Bank of Wadesboro', N. C., January 6th, 1852.

Notes received,	\$211,312 45	Capital stock,	\$119,930 13
Exchange receivable,	71,677 12	Bank note account,	237,100 00
R. L. Maitland, N. Y.,	334 20	Due to other banks:	
Agency, Cheraw, S. C.,	20,169 22	Merchants Bank of South Carolina, Cheraw,	895 59
Due from other banks:		Bank of Fayetteville,	693 25
Bank, Charleston, S. C.,	1,274 26	Deposit account,	1,990 88
Branch Bank, Cape Fear, Salisbury,	78 77	Profit and loss account,	6,334 93
Domestic exchange,	250 00		
Bank account,	1,148 76		
Cash:			
Notes of North Carolina banks,	26,028 00		
Do South Carolina banks,	5,944 00		
Do this bank,	10,206 00		
Specie,	10,512 00		
	<u>\$306,944 78</u>		<u>\$306,944 78</u>

H. B. HAMMOND, Cashier.

Statement showing the condition of the Bank of Cape Fear, December 1st, 1852.

Notes discounted,	2,368,615 16	Capital stock,	176,739 83	\$1,500,000 00
Bills of Exchange,	476,456 22	Contingent fund,	26,424 71	
United States stock,	150,000 00	Profit and loss,		
Due from others banks, viz:				
Union Bank, Boston,	14,417 35	Due to other banks:		203,164 54
Massachusetts bank, Boston,	6,817 48	Fulton bank, New York,		276 58
Merchants' Bank, New York,	4,628 05	Farmers' bank of Virginia,		386 71
Bank of New York, do	3,684 10	Bank of Baltimore,		487 67
Leather Manuf'rer's b'k, do	138,843 84	Commercial bank of Wilmington,		14,463 95
American Exchange bank, do	2,057 68	Bank of Wadesborough,		3,543 74
Bank of America, do	11,094 80	Bank of Fayetteville,		209 05
Bank of North America, Philadelphia,	10,072 08	Bank of State of N. C., Newbern,		4,385 76
Farmers' and Mechanics' bank, do	2,125 14	Same		1,039 57
Bank of the United States, do	1,330 59	Merchants' bank, Newbern,		5,683 44
Merchants' bank, Baltimore,	10,687 28	Bank notes issued:		
Farmers' bank of Virginia, Alexandria,	1,147 05	Wilmington,	784,043 00	
Same, Norfolk,	1,878 98	Fayetteville,	389,343 50	
Bank of Virginia, do	775 45	Salem,	245,444 00	
Same, Richmond,	693 91	Washington,	307,168 00	
Exchange Bank of Va., Petersburg,	515 73	Salisbury,	303,306 00	
Bank of Charleston, S. C., Charleston,	1,571 14	Raleigh,	47,567 50	
State Bank, S. C. do	20,067 50	Asheville,	447,352 50	

Merchant's Bank, Cheraw,	50 25	Greensboro',	60,000 00
Planters and Mec's. b'k. S. C., Char's't'n,	21,850 52		
Bank of Hamburg, Hamburg,	520 10		2,590,224 50
Bank of the State of N. C., Wilmington,	17,513 15	Notes on hand,	616 023 50
Same, Tarboro',	1,220 08		
Notes of foreign banks,	67,972 00	Notes in circulation,	1,974,201 00
Notes of North Carolina banks,	124,546 00	Dividends unpaid,	704 00
Specie,	605,091 96	Deposites,	425,693 16
Real estate,	67,995 68		
	<u>\$4,134,239 17</u>		<u>\$4,134,239 17</u>
Due by directors,	\$125,650 54		
Stockholders not directors,	36,353 92		

U. R. SAVAGE, Cashier.

